ALTERNATIVE NORTH AMERICAS

What Canada and the United States Can Learn from Each Other

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DEDICATION

Once more for Teresa

The be and end of it all

A Journey of Ten Thousand Years
Begins with a Single Day

(Forever Tandem)

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ABBREVIATIONS

ABM	Anti-Ballistic Missiles
ADQ	Action Démocratique du Québec
AI	Amnesty International
ANWR	Arctic National Wildlife Refuge
BC	British Columbia
BDC	Business Development Bank of Canada
BQ	Bloc Québécois
BSE	bovine spongiform encephalopathy
CAF	Canadian Armed Forces
CAQ	Coalition Avenir Quebec (Coalition for the Future of Quebec)
CBC	Canadian Broadcasting Corporation
CBSA	Canada Border Services Agency
CDS	Chief of the Defence Staff of the Canadian Forces
CF	Canadian Forces
CFE	Conventional Forces in Europe
CSIS	Canadian Security Intelligence Service
CWS	Canadian Wildlife Service
DART	Disaster Assistance Response Team
DND	Department of National Defence
EEZ	exclusive economic zone
EU	European Union
FOIA	Freedom of Information Act
FTA	Free Trade Agreement
GDP	gross domestic product
Gitmo	Guantánamo Bay
GNP	gross national product
GOC	government of Canada
GST	goods and services tax
HST	harmonized sales tax
HRC	Human Rights Commission
HRR	Human Rights Report
ICBM	inter-continental ballistic missile
ICJ	International Court of Justice
IJC	International Joint Commission
IMET	Integrated Market Enforcement Unit
IRB	Immigration and Refugee Board
IRB-IAD	Immigration and Refugee Board, Immigration Appeal Division
IRB-ID	Immigration and Refugee Board, Immigration Protection Division
IRB-RPD	Immigration and Refugee Board, Refugee Protection Division
JDF	Juan de Fuca
MD	Missile Defense
MLA	Member of the Legislative Assembly
MNA	Members of the National Assembly of Quebec
MSI	Machias Seal Island
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NDP	New Democratic Party
NEP	Natural Energy Program
NGO	non-governmental organization
NORAD	North American Aerospace Defense Command
NRMA	National Resources Mobilization Act
NWP	Northwest Passage
OLF	Office de la Langue Française
OPEC	Organization of the Petroleum Exporting Countries
PC	Progressive Conservative Party
PET	Pierre Elliott Trudeau

PIF	personal information form
PJBD	Permanent Joint Board on Defense
POW	prisoner of war
PPCLI	Princess Patricia's Canadian Light Infantry
PQ	Parti Québécois
PST	provincial sales tax
PTSD	post-traumatic stress disorder
R & D	research and development
RCMP	Royal Canadian Mounted Police
RFID	radio frequency identification
ROC	Rest of Canada
ROK	Republic of Korea
SEC	Securities and Exchange Commission
TRC	Truth-and-Reconciliation Commission
USAF	U.S. Air Force
USFWS	U.S. Fish and Wildlife Service
USSR	Union of Soviet Socialist Republics
WHTI	Western Hemisphere Travel Initiative
WIPD	World Intellectual Property Organization
WTO	World Trade Organization

INTRODUCTION

There is an aphorism to the effect that no one man is entirely useless. One can always serve as a terrible example to others. The same judgment can be applied to countries and societies.

That said, one can be confident that the United States and Canada often serve as such examples for one another. Thus, to be sure, *Alternative North Americas* may be seen as sardonic commentary rather than a search for wisdom; however, there are times when one doesn't know what one wants until there is an example against which desires can be evaluated. That certainly appears to be the case for Canada—and for the United States.

Certainly with the relative success of the "Canadian model" in economics from the Great Recession through mid-2013, Canadians have evinced more than a bit of smug self-satisfaction when regarding the political and economic flailing and failings south of the 49th parallel. Americans, to the degree that we believed we had all the answers regarding economics—and others should take heed of our success—have a hearty meal of crow that we are still in the process of consuming and far from digesting.

Nevertheless, as the aphorism recounts, "What goes around comes around," and we can expect a turning of the wheel, later if not sooner, in regard to economics. Or not. The Canadian socio-economic example may be a significant part of the future for the United States as well.

Nevertheless, a truth-in-telling confession. This book originally was inspired by Pierre Berton, a once-iconic Canadian nationalist and historian whose spite and ire was frequently directed against Americans. In this regard, Berton's *Why We Act Like Canadians* (1982) is a slim little volume, long out of print and perhaps the slightest of Berton's massive body of work.

But first some personal background.

When initially assigned as political minister counselor at the U.S. Embassy Ottawa in 1992, having no previous diplomatic experience in Canada, I turned to available literature. While there is no substitute for "on the ground" experience and direct contact with the citizens and officials of a country, such is always very individual and particularistic. Good reading from well-

recommended sources, official and private, provides background material against which you can test the specific information that you gain subsequently. Sometimes it is highly useful to assess the generalizations of others while you are still in the process of gathering particulars.

And, I admit that I selected Berton's volume partly because it was slim rather than plunging into a text such as Jackson, Jackson, and Moore's *Politics in Canada*, which at 778 pages is a volume that I have yet to navigate (nor have I found anyone who has). Berton's essay was a memorable read, one that left a bitter aftertaste and lasting sense of irritation over an exercise that I recalled subsequently as a snide put-down of the United States. Fifteen years later, I returned to the Berton work and found it even worse than my memory had served. From the patronizing "Sam" with which he addresses his messages to a hypothetical audience in the United States to the condescending style of his description of differences, it is a minor masterpiece of malice. He leaves the impression that the United States is a blind pig that occasionally finds an acorn, but at no benefit to anyone, anywhere—and only after much destructive rooting about. And that Canadian superiority in all dimensions is so all encompassing that it scarcely requires elucidation.

To be sure, it is perhaps too easy to incinerate a 30-year-old moldy straw man, with which Berton may have intended more to make Canadians feel good about being Canadians after the trauma of the first Quebec referendum than to instruct American citizens on their liabilities and shortcomings when compared to Canadians. Indeed, one might wonder whether Berton anticipated a U.S. audience of any significant dimension, hypothesizing that even in 1982, what happened in Canada, stayed in Canada. Nevertheless, even if the most memorable nastiness is often the trivial one, *Why We Are Canadians* remains an epitome of the attitudes expressed by many current Canadians, once the surface veneer of politesse is scratched.

We are seeing reflections of such commentary again from chattering class Canadians and their media mouthpieces, notably in connection with the Washington kabuki theater effort to raise the debt ceiling, the "sequester" debacle in 2013, and the ongoing congressional deadlocks. Although there were certainly Canadians who appreciated the reality that catastrophe for the United States would thoroughly damage Canada, many seemed exultant over our problems, dancing on the grave of the United States before Uncle Sam was interred. There is, one will admit, "No joy like the malicious joy one feels at the misfortunes of those you have envied."

And with that thought in mind, the following material will examine with a gimlet eye a relationship that is much taken for granted from the U.S. optic—and much taken as a benign "given" from the Canadian perspective.

The classic lecture and briefing comes in three parts:

- tell 'em what you're gonna tell 'em;
- tell 'em; and
- tell 'em what you told 'em.

The following is the "tell 'em what you're gonna tell 'em" part.

Thus the first element of the process is to pose a hypothetical question.

Uncle Sam, what do you really think about Canada?

That is a question that all Canadians should be asking themselves. Somewhat separately, it also is a question that all U.S. citizens should be considering regarding their northern neighbors, given that we so rarely think systematically about Canada.

Canadians seem to want to define themselves in curious ways. There are those who say that a Canadian is one who can make love in a canoe—as if that is particularly difficult. But anyone who has ever canoed, knows that when lying flat on the bottom, it is almost impossible to overturn—regardless of how vigorously energetic the movement. Unless a Canadian believes that sex in the canoe should be performed while seated on the thwarts or standing vertically—which generates results equivalent to those attributed to "Group of Seven" painter Tom Thompson who reportedly fell from his canoe and drowned while attempting to urinate over its side. Probably as dumb an idea as sex in the snow—another reportedly defining Canadian practice.

There is a residual belief throughout Canada that nobody in the United States pays any attention to Canadians. They believe that the Rick Mercer school of thought prevails, to the effect that you can convince Americans that seal hunting in landlocked Saskatchewan is a normal exercise, the national bird is the black fly, "Eskimos" set their elderly adrift on icebergs, and that igloos are low-cost housing in the Toronto suburbs. Or that a presidential candidate would accept a congratulatory message from "Prime Minister Poutine." On the other hand, when there is an "ice hotel" in Quebec City, a prime minister physically attacks a demonstrator—and separately must defend himself in his bedroom with a carved statue—and the iconic national police have a contract with Disney, perhaps some levels of confusion positing ignorance versus truth are understandable.

Canadians can drift comfortably along under the "one way mirror" concept wherein the belief prevails that they see Americans as they really are while Americans looking north see only a reflection of themselves. Or that there is a comfortable benign neglect attitude toward Canada inherent in Washington's attitude toward Ottawa reflecting generations of continental peace, ever rising economic exchange and trade, mutual defense security commitments in the NATO context, and generations of uncounted personal and familial connections and interactions occurring on a daily basis. In this universe, Canadians can say anything about their southern neighbors (following the aphorism by John Bartlet Brebner: "Americans are benignly ignorant of Canada. Canadians are malevolently well informed about the United States".) and it won't matter because U.S. citizens pay them no attention.

And, to be sure, U.S. citizens are infinitely more concerned with personal, local, and domestic issues than with foreign affairs. For that matter, what the citizen of Portsmouth, New Hampshire, knows about Orange County, California, is likely to be as detailed as what the resident of Orlando, Florida, knows about the inhabitants of Vancouver, Washington. Many elements of culture have become national, indeed international, through television, movies, and the Internet, but shared images of *South Park, Jersey Shore, Dancing with the Stars,* and the *CSI* franchises or even NHL matches don't tell one much about societal basics. One might hypothesize

that both countries' citizens would be hard-pressed to fill the 140-character Twitter limit with *facts* regarding the other.

On both sides of the border, professional criers of despair issue test results on our early July national days to demonstrate that citizens don't know much about anything historical. This makes for much snide snickering among those who lament for a living or have a vested interest in selling history books or test polls to demonstrate popular ignorance. But it does not necessarily predict whether ignorance of history makes a citizen less patriotic or less committed to the basic democratic defining values, e.g., rule of law, free elections, and multicultural tolerance, that make the society function.

One consequence of Canadian sensitivity and insecurity is that Canadians make criticism an art form. They might be regarded as the equivalent of 34 million hotel guests berating the quality of the service—and the neighborhood. Although the United States could not care less about how Canadians belabor each other and, indeed, it can almost be humorous to watch Quebec federalists and separatists push each other's outrage buttons, it is less amusing to listen to the drumfire of cross-border criticism. On the other hand, we enrage Canadians even further by systematically ignoring all but the most over-the-top fulminations. And nobody south of the border cares about puffed up tirades such as the once-upon-a-time Molson "rant" or the annual magazine cover story over how Canadians are better (off) than American citizens. If that strokes your canoe, paddle away.

Indeed, Canadians are so persistently engaged with what happens south of the border that occasionally they seem to think that they are voting in our elections or represented in our Congress. In the early 1990s, President George H.W. Bush was viewed as more popular than Prime Minister Mulroney. On the other hand, that was not much of an accomplishment since, at that juncture, Mulroney commented that more people thought that Elvis Presley still lived than were supporting him. Then it was fascinating, for example, to see a *Maclean's* poll in spring 2004 in which Canadians overwhelmingly voted against President George W. Bush and endorsed the anticipated Democratic nominee Senator John Kerry. Somehow, Senator Kerry never trumpeted that particular endorsement in his campaign nor did he suggest that Prime Minister Chrétien was one of the unidentified foreign leaders who wanted regime change in Washington.

In the 2002 U.S. election, a number of Liberal federal parliamentarians, including Sarkis Assadourian and Joe Volpe, called upon the United States to elect more Democrats. Presumably, they did not mean more Democrats such as Montana Senator Max Baucus, who has pressed U.S. wheat and cattle interests in seeking restriction of Canadian exports. Nevertheless, the sheer *chutzpah* reflected in the call and its blatant interference in U.S. domestic affairs has its own picture-perfect memory. It is hard to imagine Canadians daring to comparably interfere in Mexican, French, British—or indeed any other country's election. It is even more amusing to imagine the eye popping outrage from the CBC or the *Toronto Star* if a group of conservative Republicans had called for stronger representation of Conservatives in Parliament. Somehow one suspects that Mr. Assadourian *and others* would not have considered that what was sauce for the goose was also sauce for the gander.

More recent illustration of cross-border criticism came during the U.S.-led coalition action in Iraq. Here, to summarize what will be developed in more detail subsequently, Canadian criticism of the United States and its leadership was personalized *ad hominem* in nature. Prime Minister Chrétien's press spokesperson, Francine Ducros, called President Bush a "moron." Ultimately she resigned, but her comments demonstrated that members of the prime minister's office were not speaking positively of the president. Subsequently, backbench Liberal MP Carolyn Parrish described Americans as "bastards" and said that she "hated" them. As she was neither criticized nor disciplined by Liberal leadership, Americans could only conclude that her comments reflected acceptable parliamentary commentary. There were other highly personalized attacks on U.S. activity by Liberal MPs, including then-natural resources minister Herb Dhaliwal, who branded the president as a "failed statesman." In contrast when U.S. Ambassador Paul Cellucci said that the United States was "disappointed" with Canadian inaction on Iraq, two senior Cabinet ministers demanded in caucus that he should be expelled. The intimation being that Ambassador Cellucci should say no more than sweet nothings about the Canadian government and that "diplomat" was henceforth to be spelled "d-o-o-r-m-a-t."

And former New Brunswick Premier Frank McKenna, in his happily short-lived tenure as Canadian ambassador in Washington, carried his own china-shop wreckage with him. He suggested that dealing with the U.S. Congress was akin to working with 535 Carolyn Parrishes, declared that the United States was a theocratic state, and suggested Canada didn't support continental missile defense because the United States would not import Canadian cattle following outbreaks of "mad cow" disease.

Given this background, perhaps it is unremarkable that Canadians in mid-2008 expressed loathing of President Bush at a level equivalent to what might be expected if the U.S. armed forces had laid waste to Canada with fire and sword. Their distress appeared worse than during the national disgrace associated with Canada's repeated defeats in NFL hockey to U.S. teams prior to the final victory in the gold medal match at the 2010 Vancouver Winter Olympics. Some polls suggested that Canadians believed the United States was a greater threat to global peace than Iran and not much less of a threat than North Korea. During the 2008 U.S. presidential race, the Canadian preference might best be described as "any Democrat" with portions of the Canadian electorate professing either Obama envy or Clinton mania (during the primary campaigns)—despite the reality that Senator McCain was closer in tune to Canadian economic interests à la NAFTA free trade and had a daughter living in Toronto, while Senator Obama thought Canada had a president and elected its senators. Character and charisma in collision.

Subsequently, President Obama has had a Canadian fawn club that presumably will ultimately yield him even higher speaking fees from the Toronto chattering class than former President Clinton has garnered. When immediately after his inauguration, President Obama made a flying visit to Ottawa, Prime Minister Harper was depicted as benefiting from the reflection of his glory. And after the president consumed a "beavertail" in the Byward Market and purchased some trinkets and beads-type souvenirs for his daughters,

he became a secular saint in Canadian culture. And this popularity has endured through mid-2013, to the extent that the president is more popular in Canada than in the United States, even without making an official visit cum address to Parliament (supposedly one of the talismans for obtaining a second term). The absence of this standard stroking has gone by the boards without Canadian complaint.

Using golfer terminology, a Canadian diplomat once said that, "We will never give up our right to yell 'wait a minute' when you are at the top of your backswing." Very well, that is a fair characterization of Canadian attitudes. But likewise if Canadians insist on getting in the way of the play, they must also expect to be occasionally whacked by a nine iron—and not to complain that it is the golfer's fault.

Thus Canadians are likely to believe that they know what Americans are thinking and believing—both about themselves and about Canada. And, for that standard, medium-income, middle-America dweller, they may well be correct. Moreover, with a conservative government in power and projected as such until late 2015, the gratuitous manure throwing from the government will likely be minimal.

But the vague, benign impression from your imaginary average American may well be irrelevant. There is a legion of analysts with sufficient expertise on Canada to be malignly disenchanted rather than benignly amused. And these critics address a variety of topics that are open for review, regardless of the current fibrillations over debt ceilings, bond ratings, and budget deficits.

The Undefended Border and Territorial Claims

We have been societally fortunate to have had the 3,500 mile "undefended cliché" as a defining feature of our bilateral relationship. It has permitted both countries to assume that the "good fences make good neighbors" aphorism can be treated more as an abstraction than a concrete requirement of barbed wire, steel-slab walls, and other manifestations of national territorial separation.

The historical reality, however, has been fraying at the edges for years—and particularly since 9/11. Canadian hubris has blown past the reality that while the 9/11 terrorists neither originated in nor transited Canada, they certainly could have done so and doubtless could still do so. And the "Toronto 18" may be a gang that couldn't find its way from Toronto to Ottawa, but might have found targets south of the border attractive. Likewise, the prospective bombers of the Toronto-to-New York City train. U.S. efforts to enhance security have run headlong into a Canadian sense of privilege: the belief that they have the right with little more than a wave of the hand to enter the United States. The effort spent fighting the problem and seeking mechanisms to delay security upgrades rather than embracing a commitment to solutions—even if perceived as overly expensive and personally intrusive—has left the impression that Canadians are part of the problem than of the solution.

The renewed effort to create "perimeter security" in the "beyond the borders" agreement is well intentioned. It has official impetus behind it at the highest levels, but is encountering "devil is in the details" realities and much of the agreement remains

conceptual, to be implemented downstream. At least a conservative majority government with a four-year mandate will be technically capable of making hard(er) decisions when the bugaboos of "privacy" and presumed violations of "sovereignty" shove into the path of reasonable mutual accommodation.

On another level, we have a handful of border territorial problems. These are not of Alsace-Lorraine dimensions, and some are closer to "rounding errors" than disputes. They have been left to molder for decades essentially due to the judgment that it would take too much in the way of U.S. and Canadian legal resources to snip off these loose ends. But now, the Beaufort Sea dividing lines may have serious consequences for oil and gas reserves, and the costs of indifference are coming due for closer examination as a potential "cold rush" begins. There are several approaches to these issues, but leaving them totally off the stove should be eliminated as an option.

Likewise, Arctic sovereignty and the Northwest Passage (NWP) have been "agree to disagree" problems for 50 years. However, "global warming"—or the perception of such—is forcing an issue that the United States politely didn't force to conclusion. Now, we need to come to terms bilaterally on a topic that can no longer be evaded—one which Canadian nationalistic chest-thumping has exacerbated. To be sure, the results on all of these border and sovereignty problems may not be to Canadian preference; however, Ottawa can live with the consequences just as states throughout history have managed adverse legal decisions. At least the decisions will be made in courts of law and not on battlefields.

Immigration

Both the United States and Canada are immigrant-based societies.

We want to tap the world's best and brightest and strengthen our societies with such individuals. The issue is not the object but the process; not the "what" but the "how." Unfortunately, the degree to which Canada operates a refugee and asylum seeker process is institutionally, almost deliberately, designed to be "catch and release" in regard to illegal immigrants it and places U.S. security interests at risk. Believing themselves to be immune from terrorist attack, Ottawa is willing to be a source of contagion for the United States.

The fact that Canada is a patsy for illegal immigrants and pseudo "refugees" makes it an issue for the Canadian taxpayers who subsidize a social safety hammock. But when Canada is merely a way-station for those headed to the United States, Canadian indifference becomes an American problem. The ostensible current efforts to strengthen the Canadian immigration system, with more rapid deportation and tougher restrictions on illegals, sound promising in their hypotheses but face so many legal obstacles that implementation is likely more in the posturing than in the offing. Years of legal struggle are likely.

Social Issues: Crime, Human Rights, Language

In each of these areas, Canada believes that it leads the world in the humane, liberal application of noble principles to practical realities. In each of these areas, however, the United States responds with head-shaking skepticism. Canada is, to be sure, an

example—but it is a bad example, and one to be avoided. If the United States is regarded as overly harsh in its application of justice to criminals, Canada is seen as the epitome of a society that can barely defend its innocents against predators of every design.

A variety of chatterers proclaim that the world needs more Canada. Definitely the world could absorb and endure more large, resource-rich, small-population countries with no threatening neighbor(u)rs. Canada has been born on third base and believes that it has hit a triple. And, based on its geographic and historical good fortune, Canada has been able to benefit from such circumstances to develop a society and polity that accrues plaudits on many measures of human rights—certainly in comparison to some of the alternatives. But there are more than a few areas of challenge, notably on free speech, where the extralegal human rights commissions and tribunals permit "injustice collectors" to bring specious charges of hate speech, resulting in heavy fines and restrictions as well as crushing legal costs that must be borne by the defendants. Their suppression of free speech will have a chilling effect on vigorous public discourse. Despite a variety of efforts to mitigate and even eliminate these abuses, Canadians should take a hard second look at their tendency to self-congratulate and cease enduring silly self-inflicted abuses.

Moreover, Canada's generation-long pursuit of equity at the national level between English and French continues to generate anger among Anglophones and indifference by francophones—who remain more concerned over restricting English use in Quebec than speaking French in the Rest of Canada (ROC). The result is irritation by the many other linguistic groups, opportunity costs for those not born in bilingual households but implicitly forced to learn the language of "the other" to enjoy a serious federal government career, and de facto exclusion from federal politics of anyone without serviceable facility in each language. The institution of "tongue troopers" investigating whether private businesses in Ottawa are according services in both official languages is adding insult to insult. While skill in multiple languages is life-enhancing, it should be a personal choice rather than an implicit societal requirement.

The Canadian Forces: A Military at a Crossroads

For a decade, commentary on the Canadian Armed Forces (CAF)[1] had passed "viewing with alarm" and was more equivalent to writing an obituary. For the U.S. military, the bilateral relationship had become "moving on" (albeit with regret) and leaving the Canadian couch potato twitching about the prospect of actually arising. And then much changed—or did it? The Conservative Party defense budget increases and ostensible commitment to equipment purchases looked good on paper and excited observers with some initial equipment implementation, but may prove to be more a galvanic twitch of a corpse than a societal commitment to national security.

Washington has offered encouraging "atta-boys" for Canadian military participation in NATO and UN-mandated operations such as Afghanistan, and appreciates that the 10-year experience (combat commitment ending in July 2011) created a rare commodity: trained, equipped, combat-experienced, light infantry battalions. Nevertheless, from the minute Canada entered Afghanistan, it

sought any exit that it could use with "hono(u)r," and it commitment to train Afghan police and security forces was a halfway house to departure. The "now" question is how Canada will use its combat infantry battalions since they cannot be freeze-dried, shrink-wrapped, and stored for the next UN-endorsed, popularly approved crisis. And the Great Recession again puts projected defense spending on the chopping block. Anticipated budget cuts look more like maniacal machete wounds than surgical scalpel incisions.

Consequently, there are real questions as to whether any significant Canadian Armed Forces will exist a generation hence—particularly when opposition parties are profoundly skeptical about maintaining substantial military capability. Having already out-sourced its defense to the United States, Ottawa still feels free to kvetch about how its defense is managed.

Separatism: Quebec and the West

Canadians have two threats to their national unity: the over-respected Quebeckers and the under-respected Westerners. Canada's approach prompts the question of whether a velvet divorce would profit all parties.

Quebec

The Canadian effort to operate a "bi" state: bilingual, binational, bicultural has been an exhausting rather than an exhilarating process. Canada is not "the United States with a French accent." Rather Canada is the equivalent of the bicycling bear where one marvels less that the bear is upright than asking whether the SPCA should be consulted to prevent cruelty to bears. For Canada every political, social, cultural, economic, and foreign affairs problem becomes a national unity problem. So much energy and emotion is devoted to assuring that the national unity ducks are in line that insufficient attention is given to the technical problem at hand. The May 2011 election defers rather than defuses the issue.

The West

Over the past decade, Canadians have come to hope that they have resolved their national unity problem with the continued quiescence of Quebec and the 2011 federal election that effectively annihilated the Bloc Québécois. They fail to appreciate the degree to which they have taken Western commitment to Canada as a "given" rather than a problem that deserves the level of attention given Quebec. The problem is the obvious one of enormous wealth enjoyed by a small minority (Alberta). There is a level of envy that under the guise of virtue (the 2008 Liberal campaign platform caricatured as a "Green Shaft" or its anticipated successors) will persuade eastern Canadians to happily exploit the West, believing they have no recourse under the parliamentary system than to acquiesce. Eastern Canadian criticism of Alberta's "dirty oil"—that fuels the Canadian economy—has a cut-off-nose-to-spite-face element that would be amusing were it not so dangerous for national unity.

Shibboleths

There are a variety of topics on which Canadians take idiosyncratic positions from water sales to election costs that baffle an outside observer. To be sure, every society has them—but the puzzlement persists.

Why Belabor These Points?

Canadians are upset and incensed when characterized as "Canuckistan" or viewed as less than the epitome of virtue. "How dare they!" is the essential response, with all

of the illustrations of Northern Disrespect, historical as well as topical, vanishing down the Canadian equivalent of Orwell's memory hole. Americans are not injustice collectors—at least the 95 percent of the population that pays no attention to Canada.

All too often, however, the attentive U.S. observer of Canadian attitudes sees an image of the United States that is 99 percent warts (while pretending balance). The result is a caricature or a cartoon, but not a viable image, regardless of the numbers of Canadians who believe it so. For these Canadians, the United States is a malicious Goliath, monster-mashing through the world's tulips and assuming particular stomping rights in Canadian flower gardens. We view foreign affairs as nails fit only for military hammers—and international organizations as fit only for wimps and cowards. Our leaders are cowboys or idiots—or idiotic cowboys with a fraternity boy view of life. And President Obama may have the right instincts, but has fallen in with bad friends.

Our economy operates without prudence; we have overspent by deficit trillions, under-saved and thus accentuated recession, and under-taxed our citizens (and have cheaper gasoline). We rapaciously exploit Canadian resources causing global warming by hosing up Alberta's oil, clear-cutting BC timber, and preparing to send Canadian water south. Our society ricochets between license and prudery; it pours out movies, TV, and music that debase the word "culture." Crime is rampant with citizens slaughtering each other on the streets with all kinds of weapons. The *Sopranos* are the family next door and the *Beverly Hillbillies* live across the street. White males reign supreme with women barefoot and pregnant, and minorities of all nature (unless they play sports at superstar levels) consigned to ghettoes. A bit over the top—probably even for the Canadian left?

But to illustrate from the other side of the border, here is a comparable "through a lens darkly" snapshot of Canada:

Ca-*nada,* situated in the far northern section of North America, is a country rich in natural resources that has made little of its opportunities. Originally inhabited by peaceful native tribes, European settlers systematically exterminated them (the Beothuks of Newfoundland), stole their lands either directly or through manifestly unfair "treaties", and continue to refuse restitution. Individually, French traders prostituted native women with trinkets and beads; subsequently, Canadians kidnapped, brainwashed, and frequently abused Native American children in "residential schools" designed to destroy their traditional cultures and language while inflicting them with Christianity.

Ca-*nada's* relations with its southern neighbor are as poor as the Ca-*nadian* government (particularly when headed by liberals of whatever stripe) can manage without prompting direct politico-economic retaliation. These strained relations have a long historical basis as Ca-*nadians* fought to preserve English oppression over the southern colonies during their fight for freedom by unleashing Indian tribes against defenseless frontier farmers—an approach they repeated in 1812 when they also assisted in burning the U.S. capital of Washington. During the U.S. civil war, Ca-nada harbored Confederate rebels who raided and destroyed U.S. border towns.

Ca-*nadian* participation in the great security challenges of the twentieth century has at best been ambivalent. The French speaking population saw little reason to resist German World War I or Nazi/Fascist World War II

aggression. The prime minister during World War II, when he wasn't consulting with his dead mother in séances, left the military burden to English speakers. The major political figure of the 1970s and1980s, Prime Minister Pierre Trudeau, blithely avoided World War II military service. During the U.S. effort to prevent the communist conquest of South Vietnam, Laos, and Cambodia, Ca-*nada* offered sanctuary to U.S. criminal draft dodgers—perhaps believing them to be modern Pierre Trudeaus. Since World War II, Ca-*nada* has left continental defense to the United States, making no significant military contribution, but obdurately obstructing efforts by the United States to defend itself, e.g., continental ballistic missile defense.

Ca-*nadians* are indifferent to border security. Only an alert U.S. border guard prevented a south-bound terrorist (Ahmed Ressam) from bombing Los Angeles International Airport to celebrate the "millennium" in 2000. They were dilatory in prohibiting terrorist groups, e.g., the Tamil Tigers, since the Tamil ethnic group was a primary supporter of a political party. Their concern for Islamic terrorism focuses more on protecting privacy than in rooting out terrorists. In the post-9/11 world, Ca-*nadians* are concerned with their ease of travel—endlessly quibbling over improved controls or enhanced documents to delay their implementation. Their response to the Christmas 2009 "underwear bomber" was fear that their private parts would be revealed by proposed specialized imagery rather than that pentaerythritol tetra-nitrate (PETN) explosives would be identified.

Economically, Ca-*nadians* have prospered primarily by rapacious treatment of their environment. They have destroyed once massive fish stocks (and now pollute waters and further degrade wild fish with "fish farms"); slaughtered fur-bearing animals by the millions to satisfy European fashion cravings; substantially deforested major areas of the country; and currently are in the process of massively polluting Alberta's environment by extracting oil from tar sands. They have emphasized waste rather than conservation. Air, lakes, and rivers are often polluted. British Columbia's capital city, Victoria, flushes its raw sewerage into the ocean—and brags about it. The country so heavily taxes its citizens that many of its most entrepreneurial and creative depart.

In human rights terms, Ca-*nadians* repress freedom of speech in kangaroo courts (otherwise known in Orwellian terms as "human rights tribunals") and permit French speakers in Quebec to limit the province's English speakers' rights to publish in their own language. Conversely mass murderers receive trivial sentences. They prohibit medical doctors from private practice and—by rationing medical services—force extended delays in key medical services (some of which they deny to the elderly with fatal consequences).

Unfair? A selective use of facts that deliberately avoids the truth almost as much as a Question Period non-question? Absolutely; it is commentary meant to provoke, but perhaps—even with steam rising from the brow of the Canadian reader who may well have thrown this book across the room—there may be a mild albeit reluctant appreciation that Canadian descriptive images of the United States are frequently distorted to a comparable extent.

1 OPEN BORDERS AND CLOSING THREATS

Where do we draw the line on the adage that "good fences make good neighbors?"

This question embodies the essence of current continuing tensions along the Canadian-U.S. borders. The traditional "longest undefended cliché" is quickly becoming a twentieth-century artifact with levels of security and proposals for much, much more than would have been conceivable little more than a decade ago, i.e., pre-September 11, 2001. Admittedly, this circumstance would barely be recognized as a constraint, let alone a problem, throughout much of the world in historical or even current terms where crossing a national border is a serious personal and political decision event. (Try getting a visa to Russia or China; weeks of waiting are the norm.) Nevertheless, due to the unique U.S.-Canadian relationship, its recent evolution needs examination.

Certainly, from time immemorial until 9/11, the reality of the North American continent was the virtually free movement of populations—animal and human. Well before there was significant human presence, the "fauna" drifted (and for that matter the "flora" as well, albeit more slowly) with no special regard for anything beyond the availability of grass and water, favorable climate, and fewer predators. Much of North America was a sea of grass "where the deer and the antelope roam," and a herd of buffalo could take much of a day to pass a given landmark.

Nor did anything beyond the nomadic pursuit of wildlife impinge on the travels of most Native Americans: they came; they camped, gathered, hunted, feasted; and they moved again for the next season or hunting opportunity. The Head-Smashed-In Buffalo Jump site in Alberta epitomizes such a style of life. While specific tribes were more or less found in general locations, geographic constraints were minimal. And, so far as European arrival on the continent was

concerned, the specific location of boundaries was a technical and political concern rather than one of serious socio-economic significance to individuals. Both Canada and the United States sought people to fill the empty space in the center of the continent and thereby generate prosperity from farming, ranching, and mining. In that regard, the primary difference in the nineteenth and early twentieth century between a Canadian and a U.S. citizen was between an immigrant who turned right rather than left while traveling west across North America. And that is not to count the present day Canadians and Americans whose ancestors originated in the other country, moving north or south at will and whim. Primarily, these were people seeking precious metals, better land, more reliable water, closer rail heads, and generally enhanced economic opportunity rather than viewing where they lived as an immutable national label for citizenship.

Separately (in Chapter 2) we will review the specific territorial conflicts and persisting unresolved boundary differences; however, on an individual basis the Canada-U.S. border has been socially and economically fluid for generations, despite clearly surveyed and carefully marked boundary lines.

There are endless anecdotes demonstrating a genuine neighborly spirit more akin to relations of congenial residents on a city block than those between two nations. This reality can lead to borderland anomalies such as the following:

- children of Point Roberts, in Washington, being bused to school pass through British Columbia—and get most of their services from Canada;
- the library and opera house in Derby Line, Vermont, having part of each building in the United States and part in Stanstead, Quebec;
- a street, Canusa Avenue, in Beebe Plain, Vermont that runs east-west with Canadian residents on the north side and Americans on the south side;
- children's sports teams across the continent regularly playing opponents from schools in the other country;
- thousands of daily workers and shoppers living in one country and working in the other—and picking up "specials" on the way home;
- the citizens of Stanstead, who, for a generation, found that labor for women about to bear their second child progresses more quickly than with the first child. Thus, because the closest available clinic was in Vermont, such children were dual nationals, having been born in the United States; and
- the many instances where emergency vehicles and volunteer fire departments in one country responding to accidents and fires in the other (quite recently when fire departments in Maine rushed to fight the disastrous Lac-Mégantic oil tanker fire).

It is the casual and habitual nature of this relationship that created a sense among Canadians that they had a right to travel into the United States without restriction. Americans assumed the same with the most casual forms of identification (or none at all) sufficient to permit a U.S. license-plated automobile to enter Canada. To be sure, intellectually, Canadians appreciate (more than

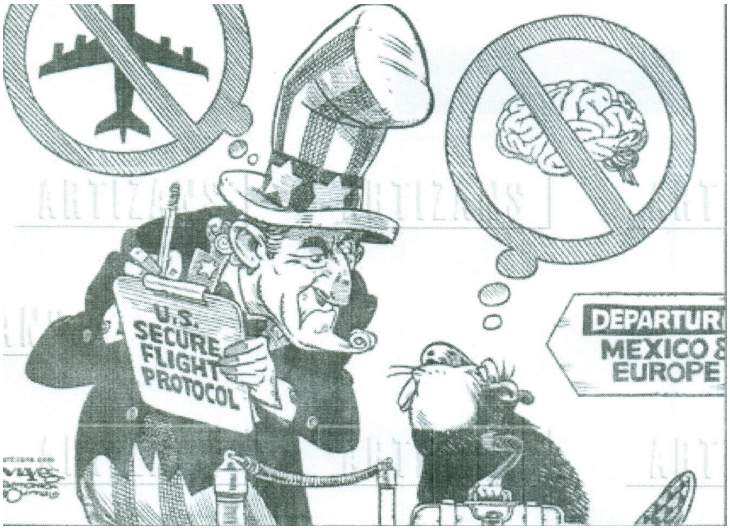
U.S. citizens appreciate the obverse) that the United States is a separate country; however, viscerally they assumed that any restrictions on entry would not apply to them as general "good guys" and close political allies. It is something of a twist on the sobriquet that, "we're just like you," wherein Canadians believed they were automatically accorded a privilege associated with U.S. citizenship without commensurate responsibility of citizenship. And they certainly didn't equate themselves with Mexicans so far as requiring comparable attention to enter the United States.

But times have changed.

A Different World

The United States' and global efforts to counter the effects of the 9/11 terrorist attack have now lasted longer than U.S. participation in most of the military conflicts of our history. The Obama administration may have dropped references to "the Long War" and the "Global War on Terror," but that does not change the protracted reality. Already combat in Afghanistan is longer than our participation in World Wars I and II combined, longer than the Korean Conflict, longer than the Civil War (1861-65), and the American Revolution (1775-83). Only Vietnam (1965-74) was comparably long. Nor have we faced a societal challenge that is clearly "a Long War" since the "Indian wars" in the American West persisted for generations during the nineteenth century before, during, and after the Civil War. These also retrospectively can be regarded as akin to a war against terrorists featuring an endless effort to identify bands and chiefs amenable to persuasion, coercion, and bribery, securing the ranches and homesteads of settlers, seeding the area with secure bases (log forts and stockades) while wiping out those whose primary job description was killing "palefaces," with little or no differentiation between soldiers and settlers of any ethnicity, age, or gender.

Perhaps the circumstances of security are still not appreciated, let alone understood, by non-Americans. Perhaps, in particular, someone who has not traveled significantly or not traveled recently is suffering "security shock" akin to that "sticker shock" facing a new car purchaser. Certainly, if I had not visited Washington since 1968, I would see a very different country and society in 2013 and probably be significantly unsettled and mutter about a "garrison state". A generation ago, we were certainly a more naïve and physically open society. Although the technical potential for terrorism was clearly evident (for example, the massacre of Israelis Olympic athletes by the Palestine Liberation Organization terrorists in Munich 1972; the Beirut Embassy bombing in 1983), so far as Americans were concerned, it was "over there," and we were safe at home—or



Malcolm Meyers, *Edmonton Journal*, 2011

at least safe from anything short of nuclear attack by Soviet missiles and a catastrophe that no individual precautions could thwart.

Consequently, as a newly minted U.S. Foreign Service officer, I could enter the Department of State or any other agency in Washington without identification of any nature and wander the corridors until I found my destination or had satisfied my wanderlust. Slowly, over the years, "security" was enhanced. First, one carried a badge with a photograph (a photo so poor and so little observed that an individual once substituted a picture of a dog and was not noticed). Then security guards began closer observation and badges had to be worn visibly within the department dangling from neck chains like military dog tags. New rules on who could authorize entry into official buildings were implemented. Locks with "punch codes" were placed on individual office doors. The photo ID passes were upgraded with a code (like a credit card) so that they had to be "swiped" before entry through a turnstile was possible. Then the "swipe passes" were further upgraded to incorporate an information "chip" and an individualized code that had to be punched into the turnstile before it permitted entrance. And virtually every door at the State Department now requires individualized, coded passes before entry is possible. This has been an expensive and admittedly at times a tedious process.

These measures are, however, a response to a reality: terrorists have become more clever and technically skilled. Suicide bombers using everything from a bomb loaded vest to a high capacity truck or van have demonstrated the ability to kill—anyone—in wholesale, not just retail numbers. That circumstance is relatively new historically—at least in the numbers now being encountered and their geographic reach. The attempts to counter terrorism on our soil—and prevent our citizens from dying—have limited individual freedoms. We are still struggling with the "costs" both financial and philosophical, but having Canadians whine about our process and its conclusions is not helping to resolve the baseline problems.

To belabor the obvious, there have been two events that have prompted U.S. attitudinal change: the apprehension of the "millennium bomber" Ahmed Ressam and "9/11" with its "12/25" codicil. Let's begin with the latter.

It is on the verge of becoming trite to review the events that are now over a decade in the past or to discuss what the effect of the terrorist attack on the World Trade Center in New York City had and continues to have on the United States. Suffice it to say that for the foreseeable future, the attack will define a generation.

It has been said that "who you are is where you were, when." That is, for the "greatest generation," the question was, "Where you were when you heard about Pearl Harbor?" For the "boomers," it was, "Where were you when you heard about JFK?" And now for this maturing generation, the question will remain, "Where were you on 9/11?" That day's bolt-from-the-blue character, indelibly embossed on all who saw it "live" or replayed for the nth time has had a profound effect, significantly greater in its individual psychological weight than even the Pearl Harbor attack in 1941. The horror in Hawaii had to be imagined, and its dimensions were concealed by censorship for months.

The "12/25" 2009 Christmas "underwear bomber" effort to destroy Northwestern flight 253 brought back 9/11 memories

with a gut wrenching twist. Eight years of apparent success in preventing attacks had prompted not congratulations but criticism that existing security precautions were too rigorous, intrusive, and unnecessary. But with 12/25, we were forced to recognize that the terrorist attack succeeded—it was just technical and personal incompetence by the terrorist that prevented the PETN device from killing almost 300 persons. One might have expected that the prospect of fragments of the aircraft and its contents being scattered over the Ontario landscape would have galvanized Canadians into a fresh appreciation of security problems—after all *Canadians* could have been killed. While there was some positive official and public reaction, the media frequently focused more on the anticipated violation of "privacy" from full body scans to detect PETN type explosive. There was much kvetching over locking barn doors after equines had escaped (as if the barn had no other horses). And there was opinion to the effect that heavy security was disconcerting the traveling public, as if the public would be less traumatized by exploding aircraft than by intrusive security.

We keep reading blithe media suggestions that intense security precautions mean that the terrorists "have won." Or that the expense isn't worth the actual level of deterrence. Or that the threat really isn't that significant now. However, we have become a "belt and suspenders" society; abstractly we regret the intensity of the security—and perhaps abstractly it doesn't *really* make air travel safer, but the consequences of security failure remain catastrophic in their economic and socio-political potential, and hence comparable security levels will continue.

But perhaps it is the Ahmed Ressam case that is potentially the most disconcerting. As the prospective "millennium bomber," Ressam represents death retail, whereas 9/11 was death wholesale, and thus Ressam is closer to the day-to-day reality that most Americans can imagine. On December 14, 1999, Ressam was stopped by a preternaturally alert U.S. customs official at the Port Angeles, Washington, ferry landing border crossing point from Vancouver Island. Subsequently, Ressam was found to have concealed in the trunk of his car 50 kilograms of explosives and timers intended for an attack on Los Angeles International Airport (LAX). This event was the final act in a psychodrama that concluded as farce—with Ressam being pursued through the streets on foot by U.S. security forces—but easily could have been tragedy.

Ressam arrived in Canada in February 1994 with a fraudulent French passport. Challenged by immigration officials, he claimed political asylum contending that he had been tortured in Algeria and subsequently was allowed to stay pending a refugee hearing. Predictably skipping the June 1995 hearing (whereupon his application was denied and a warrant issued for his arrest), he created a new identity with a stolen baptismal certificate form and obtained a Canadian passport in that name. He remained in Montreal for almost three years, apparently living as a petty criminal (with the warrant for his arrest and deportation outstanding and unexecuted). He traveled to Afghanistan in March 1998 where he spent several months in an al-Qaeda camp and was trained in weapons use and explosives manufacture. Returning to Montreal in February 1999, he spent until December planning the attack on LAX, gathering explosive material, constructing timers, and securing false identity cards.

What does this legend suggest to even the casual reader? Even in the less aware pre-9/11 era, the feeble nature of Canadian domestic security is palpable. To wit: the

process for political asylum upon arrival at a border entry point can be "gamed" even by the most ignorant; there is no mechanism for rapid determination of the legitimacy of an asylum claim; there is no mechanism for securing or monitoring claimants between the time of their apprehension and their scheduled court appearance (or an ability to assure appearance in court); the effort to arrest and deport those with warrants against them is insignificant (reportedly there are upwards of 30,000 such individuals in Canada evading deportation); the ability to obtain false identities (passport and driver's license) is easily mastered; precursor materials for constructing explosives and timers can be casually obtained; money for air fares, automobiles, hotel rooms, etc., is readily available—either because crime pays well or external financing is available; and the societal constraints that would identify suspicious or criminal behavior on the part of a "Ressam" and bring them to official attention appear feeble to nonexistent. Ressam was no mastermind criminal spy of the James Bond variety; it is the very mundane nature of his personal abilities and the degree to which he was able to secure the tools for terrorism unimpeded that are chilling.

Ostensibly, according to recent announcements, the Canadian government will attempt to control illegal immigrants; however, the requisite laws and regulations are at this juncture more sound than substance, with legions of lawyers salivating at the opportunity to reverse them in courts. Delays only enable prospective terrorists.

Who is the next Ressam? And will we be lucky a second time?

But to return to 9/11.

Those who are aware of the circumstances and movements of the 9/11 terrorists know that none of them originated in Canada. The regular comment that there was a Canadian connection reflects the continuing ignorance of the ignorant—not excepting some senior U.S. politicians ranging from former Senator Hillary Rodham Clinton to (as of January 2012) Homeland Security Secretary Janet Napolitano. However, there is a salient point beneath the ignorance. Although none of the 9/11 terrorists came through Canada, those aware of the feeble nature of border security during that period also know that all of them could have come—easily—through Canada. It is that reality that should prompt concern by discerning Canadians regarding the imperative nature of the effort to secure their border.

Many Canadians present the attitude that the United States is paranoid over border security when we should only be neurotic. In a phrase: "Humor us." We may indeed be that batty old Uncle Sam who can be a wingnut caricature in cartoon cleverness, but no Canadian wants to be tagged with the responsibility for being the base for terrorists who strike the United States in some future "12/12" or "7/7." When such an event occurs, were the base for our attackers identifiably in Canada, Ottawa needs to be in the unassailable position that clearly Canada went the extra mile to placate the paranoid uncle, because even paranoids have real enemies. And an angry paranoiac will strike out at the perceived source of injury, regardless of whether he or she may do gratuitous self-damage as well. So if that effort means what a Canadian green-eye-shade actuary would consider unnecessary expenditures on document security, personnel investigations, equipment purchases, or border controls, it will be cheap at the price when examined in the light of a Washington

looking to blame someone for having done the minimum rather than the maximum requested.

In short, we can be sure that our enemies continue to search for mechanisms to do us the maximum pain. On 9/11 they creatively exploited airline reliance on the paradigm of the previous generation in which hijackers of passenger aircraft were often delusional psychotics demanding ransom for passengers, release of "political prisoners," or publication of personal grievances. The "book" response was to placate and temporize; we had not faced a circumstance that postulated suicide to maximize casualties and economic destruction. An enormous amount of highly expensive effort has been directed at preventing this "horse" from escaping again, but it is hardly the only mechanism through which terrorists can strike. And, we could be struck again—with vicious bombing, and wonder what would have happened had the Tsarnaev brothers—the Boston Marathon bombers—attempted to escape to Canada rather than lingering in the vicinity of their terrorist attack.

This was almost the case on 12/25—and the new aircraft paradigm has become that the passengers are the last line of defense; they made a desperate and successful effort to immobilize the "hot pants" terrorist and extinguish the flames from his igniter. We can be sure that every terrorist wannabe knows the flight time from Toronto to Chicago and will be able to pick out the tallest structure: the 108-story Willis Tower (formerly Sears Tower). Terrorist creativity was again demonstrated in October 2010 when two bombs designed to appear as Xerox printer cartridges were detected on cargo planes originating in Yemen and headed for Chicago via UPS and FedEx. Astute intelligence stopped them, but the lesson of "hands off" terrorist global reach puts another spin on security challenges.

What we seek from Canadians is maximum effort to support our interests. Complaining that we are using too many nails to shut the "barn door" doesn't qualify as support. And facing the politically correct strictures of "equity," Canadians must now address our need to treat the 49th parallel with the same attention as we treat the border with Mexico.

Unquestionably, "9/11" prompted major changes in U.S. attitudes toward border security that affect Canadians but to which they have responded more with irritation and complaint than with appreciation for the pressures under which we are operating. Media play appears to concentrate far more on inconvenience to Canadian citizens and the potential that their precious privacy is in danger of being violated (almost on the level of screaming "rape" in response to someone saying "hello"). Thus Canadian newspapers obsessed over the story of Rohinton Mistry who complained in 2002 that he was repeatedly interviewed when attempting to travel to the United States (and declared subsequently that he would no longer travel south).

The next level of controversy has been the U.S. requirement that commercial aircraft flying over the United States (but not scheduled to land) provide their passenger lists for vetting. The rationale for such a request would appear self-evident given the proximity of major Canadian airports such as Toronto to U.S. cities such as Chicago, and the "privacy" of the individuals flying would be a tertiary concern. Nevertheless, the topic was a focus of media convinced that if the United States wanted such information, correct-thinking Canadians should deny it.

To be honest, there will be mistakes. Individual names will be confused; incorrect names will be entered on "watch lists"; unwitting travelers will be delayed, inconvenienced, and perhaps even prevented from traveling. And those who should be prevented from flying, e.g., the 12/25 "underwear bomber," will not be listed. Ridiculous events, such as questioning the late Senator Edward Kennedy, will occur. Investigating the adult diaper of a wheelchair-bound 95-year-old or a small child searched in a manner that might equate with molestation amuses nobody. Saying "I'm sorry" doesn't suffice for many of those so inconvenienced or delayed. Nor is there any special pleasure in repeated searches and limitations over what can be carried on aircraft. The wry suggestion that we should strip and travel in the equivalent of hospital examination room gowns may yet become more than talk show humor. Even the prospective virtual nudity stemming from the new scanning machines will need eventually to be enhanced and probably cell phones banned as they can be used to detonate explosives secreted in "body cavities."

Moreover, the regulations against profiling create special absurdities: when all of the 9/11 terrorists were young Islamic males and the overwhelming majority of subsequently identified terrorists globally fall into the same category, there is an inherent logic in paying special attention to such individuals. But… no. Political correctness requires selective sampling that runs undifferentiating through the inspection mill, elderly white males; matronly females "of a certain age" and various races; and young women with knapsacks (drug mules or just cute enough to stimulate intrusive search)?

By now virtually everyone who crosses the border regularly has a "story"—either of extended delay or inconsequential additional search and review. In this regard, during the 2006 summer, a U.S. retired couple with standard tourist passports was asked standard questions at a Canadian customs post in the course of their annual visit. They were then directed to the customs office for further questioning; in effect, there were no further questions—just delay. Asked what prompted attention to such an uneventful couple, the Canadian officials implicitly admitted to having a quota of just plain people to be examined.

Nor can we be confident that for all of the security (and commensurate delay and inconvenience), air travel is perfectly safe. Although the 12/25 near miss is the proximate illustration of potential air tragedy, there are other illustrations. On one day in January 2008, media reported a presumed success—and a failure—of airline-related security. The success was the arrest of a California teenager with implements, including handcuffs, who was planning to hijack a passenger aircraft reportedly to crash it into a concert venue. The failure was a man who carried a loaded pistol unimpeded through a security check point at Ronald Reagan National Airport in Washington. Finally appreciating his error, the man informed security personnel who, probably in a combination of fury and embarrassment, promptly arrested him. The public has been regaled with comparable systemic failures—along with a steady stream of further restrictions (various liquids and gels banned and limited container sizes apparently since in combination they can be explosives) and, following the 12/25 terrorist attempt, announcements of enhanced detection equipment and multiple options for screening.

Making Unsatisfactory Security Better

The United States has been forced by the insecurity of its normal documentation to demand its upgrade. That is, fraudulent driver's licenses were easily obtained by a number of the 9/11 terrorists. The market in false birth certificates, social security cards, and other "papers" previously regarded as proof of identity has been driven by the flood of illegal immigrants in the United States. Presumably those supplying the 9/11 terrorists with fake drivers' licenses thought that they were just the standard illegal economic immigrant. It is to cope with this challenge that the USG turned to enhanced secure documentation, notably upgraded passports, to provide reliable identification of the document holder.

The elements of this effort are incorporated into the 2004 Intelligence Reform and Prevention Act as the Western Hemisphere Travel Initiative (WHTI)—pronounced either "whit-ee" (for those of a humorous bent) or "wheat-ee" (for those with more mundane instincts). At this juncture (mid-2013), the results require all individuals entering or re-entering the United States by air to present a passport or "other valid travel document" (a range of identification material that regularly changes); this requirement was implemented in January 2007.

More importantly (since most individuals traveling by aircraft have passports) was the requirement that by February 2008, all individuals 19 years of age or older entering the United States (including U.S. citizens) by land must present upgraded documentation. It was no longer possible simply to flash a driver's license with photo to obtain entry. Thus, if the potential entrant did not have a passport, the photo driver's license had to be implemented with additional proof such as a birth certificate. Children had lesser ID requirements.

The February 2008 requirements went into effect despite congressional legislation ostensibly banning their implementation until June 2009—legislation for which Canadian officials actively campaigned and which also suited the local interests of border state politicians. Then Secretary for Homeland Security Michael Chertoff, however, declared that he had authority under earlier congressional legislation to act.

For U.S. citizens, the issue was a "where you sit is where you stand" political exercise with the citizens of upstate New York (with Senators Chuck Schumer and Hillary Clinton) and those in Vermont (with Senator Patrick Leahy) making claims that additional controls would damage local border economies. However, citations of self-interested "studies" contending that one or another amount of money would be lost, e.g., a 2005 Conference Board of Canada study estimating that the travel initiative would cost U.S. and Canadian border communities $2.5 billion in reduced travel, are inherently impossible to prove. Travel has been far more stimulated (or depressed) by the respective values of the national currency than by specific travel constraints. Hence, when the Canadian dollar soared to US $1.10 in December 2007, cross-border Canadian bargain seekers stormed local stores. Likewise, when the Canadian dollar hovered below US 70 cents, U.S. citizens found bargains of every nature north of the border. And without question the ongoing recession steadily reduced U.S. travel to Canada to its lowest level in

years, exacerbated by the stronger Canadian dollar that varied throughout 2011-12, but as of mid-2013 hovered around "par" with cross-border shopping stimulated by relaxed Canadian limits on short visit imports.

Canadians, however, devoted their efforts to fighting the problem, presumably in hopes that if resisted and delayed long enough, it would go away. Hence, the desire to push action into mid-2009 clearly reflected the hope that a new (and presumably Democrat) administration would soften or further defer into the never-never enhanced travel documentation. This "fighting the problem" approach took multiple directions: (a) it is too expensive; (b) documentation would have to be replaced too frequently (Canadian passports then were valid for five years); (c) only approximately 40 percent of Canadians had passports (rising to over 50 percent in 2009); and (d) improved technology such as radio frequency identification (RFID) is insecure.

Some of these objections are easily dismissed. The cost for a Canadian passport may be excessive; however, it could be subsidized by the Canadian federal government, which until recently ran a substantial fiscal surplus. Even in the current economy, the passport price could be lowered. The cost and frequency of replacement could be reduced by making passports valid for 10 years for adults (which was instituted in mid-2013), as is the case in the United States, or extending all current passports to 10 year validity. The question of what percentage of Canadians (or U.S. citizens) currently holds passports is a red herring. First, those Canadians who do the overwhelming percentage of the national traveling already hold passports. Second, those who do not hold passports may well be individuals too young (or old) to travel—or who do not have an interest in traveling beyond their national borders or even outside their city limits.

But realistically, Canadians should face up to twenty-first century modernity. International travel is a privilege requiring a cooperative traveler willing to accept, albeit reluctantly, the bureaucratic requirements of the traveled-to country. Thus travel has become 360-degree expensive and attempting to address the demands blithely will result in a frustrated traveler. Attempting to navigate security demands cheaply can have costs in horror, not just in budgets.

The technology and security issue needs to be addressed separately. Various "biometric" approaches are under investigation. Thus the laser ID for the eye; or embedded codes for finger or thumb prints are being tested. To be sure, there are those squeamish over offering up their eyeball to a laser and others concerned that an amputated thumb might "pass" the felon who presented your dismembered digit to border security. Currently, RFID elements are incorporated in U.S. passports—as they are in the passports of increasing number of nations such as most EU states, Japan, Norway, the United Kingdom, Australia, the Republic of Korea, and New Zealand. Information in the RFID-chip is limited to that on the passport and varies according to country. It can include digital fingerprints and a digital photo of the passport holder. Security concerns regarding whether the information can be read at a distance or whether passport holders can be targeted by prospective assailants seem more directed at abstractions rather than any concrete case. However, U.S. officials state that the RFID-chip cannot be read directly. And anyone seeking a wealthy tourist to mug based on reading an RFID-chip could

probably identify such a victim with a much lower level of technology, e.g., eyeballing those with the obvious trappings of wealth.

The Peregrinations of Perimeter Security

Perhaps it is not surprising, albeit gratifying, that finally—finally—we have returned to the obvious. It is easier to keep the bad guys out of Canada and the United States if we have one set of rules, procedures, policies, and approaches to security. If such a "perimeter" defense can be constructed—and both nations are satisfied with its effectiveness—then (theoretically at least) our citizens should be able to travel as easily between Ontario and New York as they travel from Ontario to Quebec. That is not to say that there will be no "rite of passage" at the U.S.-Canadian border, but that it should be quicker and thinner rather than ever slower and thicker as has been the base over the past decade.

Officially we moved in this rationalizing direction when, at a White House meeting on February 4, 2011, President Barack Obama and Prime Minister Stephen Harper announced talks on the security perimeter initiative—officially the "Beyond the Border and Regulatory Cooperation" talks. Indeed, Harper had gotten the word when stating, "a threat to the United States is a threat to Canada."

The effort was designed to "promote economic growth, job creation, and benefits to our consumers and businesses through increased regulatory transparency and coordination." The objective was for "smarter, more effective approaches to regulation [but to] in no way diminish the sovereignty of either the United States or Canada. For the next six months, the sides ground through these platitudes and principles reaching a deal for

- synchronized international coordination and planning at land border crossings;
- "one-stop shopping" for importers combined with reduced paperwork requirements;
- special visas for certain business travelers and more emphasis on frequent traveler programs; and
- detailed benchmarks to bring food and auto industries into line.

The agreement hung fire awaiting a date that would give it Canadian-desired visibility while not taking up too much presidential time. That alignment of stars arrived on December 7, 2011, when President Obama and Prime Minister Harper signed an agreement to implement these elements. It won't be cheap—projected costs at $1 billion, and implementation is spread over months, even years (oh, those devilish details are perched like gargoyles on the structure). Hence, the mid-2013 report over which nation's laws would apply in a citizen's complaint over action by the other country's law enforcement official has delayed two policing pilot project for a year—and counting. But at the same time, we are mulling over the possibility of a "Blue Rose" underground optical fiber sensor cable that would detect movement across it. So have we squared the circle with a perimeter protection projection? Doubtless not. We will continue to struggle with the "knowns" while ultimately we can be assured that "unknown unknowns" will impinge.

In this regard, an ancillary but proximate problem is the "duty free" issue for short cross-border trips. Canada exempts nothing

from customs duties for a one-day trip; upwards of $200 is duty free for a visit of more than 24 hours. The United States has a $200 limit for a same-day trip, and in mid-2011 was proposing in Congress a $1,000 daily limit. Canadians in May 2011 blew off the U.S. proposal that both countries move to a $1,000 customs exemptions for a daily trip. This attitude reflected the persistent nickel-and-dime Canadian attitude toward finances prompting border agents to be more alert to a hidden bottle of whiskey than to prospective criminals or terrorists.

Another element is the "privacy" issue in which Canadian concern for personal information protection verges on the paranoid—including in Summer 2011 the CBC refusal to publish names or photos of illegal alien criminals sought by the government for deportation.

Thus the "devil is in the details" maxim appears to be hard at work in the security perimeter negotiations. That unfortunate circumstance is added to the predilection of Canadians to try to leverage the system. At the 12-year mark for the 9/11 attack, Canadians appear to believe that we should be "over it" and able to get back to normal. Illustratively, in August 2011, then Canadian public safety minister Vic Toews was cited as saying in effect, we will trade better perimeter security for greater economic access. ("We will accommodate them as long as we benefit on trade.")

That remark was almost as stupid as the (quickly withdrawn) CBC April 2013 "casting call" in Toronto that no "whites" need apply. Toews's attitude was a sure way to lose both objectives. He seemed to believe that these security negotiations are akin to the bazaar-haggling Middle East peace negotiations wherein Israel trades "land for peace." But for us, there will be a proof-is-in-the-pudding attitude: if the proposed arrangements coordinating intelligence exchanges and procedural parallelism plus effective new technology are perceived as working, then easier movement across the U.S.-Canadian border will follow. But if a Toews-style attitude predominates, neither will happen, despite the current promising start.

Nevertheless, the effort has progressed slowly—so slowly that it has been all but miraculous that borders have not been blatantly penetrated. The "12/25" non-event suggests that God continued to look after fools, drunkards, and the United States of America. Next time God may be otherwise occupied.

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2 UNSETTLED BOUNDARIES—THAT NOT YET SETTLED BORDER

Elsewhere observers have noted that the United States and Canada share a "3,500-mile undefended cliché." Indeed, first-time observers and speech writers have a tendency to focus too much on the "undefended border" as if it is their unique revelation and a gift to their audience. The audience, more frequently than not having heard the observation on multiple occasions from first-time orators, gives a silent sigh and hopes that something more edifying will be subsequently forthcoming.

Nevertheless, at this point, even the cliché may be twentieth century passé. Yes, the post 9/11 security requirements for both countries have prompted a "thickening" of the border. The enhanced security, however, is not Maginot Line fortification to defend against armored divisions sweeping across Midwestern plains, but rather, in keeping with the times, consists of upgraded inspection and ID documentation at border crossing points and better technological observation in the form of security cameras, hidden sensors, and (unarmed) drone aerial surveillance along the entire border. As North Americans traditionally turn to technological fixes for "people problems," more rather than less of the same is likely.

However, the absence of ostentatious security does not mean that there are no border disputes. Historically, there have been a substantial number of controversies—ranging from those who insisted that "54-40 or fight" was justified U.S. foreign policy for resolving the location of the border to polite quibbles about where a lost or missing border marker might be appropriately located and positioned when found. And over our extended relationship, many of the border and boundary disputes were resolved with good or ill grace depending on who thought they "won" the case. Still, as is the reality for many countries, there are portions of the border that remain unresolved.

To be sure, Canada and the United States have nothing equivalent to the Duron or the Curzon line in South Asia. Nor is there any comparison with the battle-hardened former Yugoslavia shard state borders or the residue-of-empires carving up of African geography with no

concern for tribal demography. Yet, there are still undecided elements of our borders.

In some instances, these residual, not-quite-disputes appear to be the consequence of virtual absent-mindedness; perhaps the arbitrators just got tired and didn't finish a point or missed it in the paper pile at the negotiating table. Or perhaps it was left open to be revisited on the request of either party. On other more significant matters, the issue may not have appeared all that important at a time when the area in dispute was regarded as a trackless waste, so there might have been a polite "agree to disagree" outcome. Or, having taken a run at a disagreement diplomatically and found it not subject to a quick fix, (but with local passions running high), it might have been set aside for later consideration when more diplomatic energy would be available with less personal passion. And there it remains, "set aside" for many years. Additionally, there are First Nations issues in which recognized aboriginal claims overlap both countries to create a boundary legal and juridical nightmare exacerbated by the intersection of treaty rights, tribal rights, states' rights, and smugglers' "rights." Finally, and on a more "real" level, there is serious international conflict over the global and U.S. recognition that the Northwest Passage is international waters, juxtaposed against the Canadian claim that it is subject to Canadian sovereignty over Arctic territory and waterways. This latter issue is particularly heated, so to speak; it will be examined separately in Chapter 3.

Some History

Most of the bilateral boundary disputes came about or were exacerbated by the extension of the existing maritime boundaries to a 200-mile exclusive economic zone (EEZ). Formalized through the UN Convention on the Law of the Sea in 1982, the EEZ was designed to give states better control of maritime affairs beyond previous limits of territorial waters. The unfortunate side effects have been the resulting overlaps of EEZs between neighboring states that the convention leaves to the states to sort out.

Consequently, these disputes have persisted due to the complexity of competing claims and the reluctance of both states—particularly Canada—to press for defining conclusions. Sovereignty and boundary issues remain particularly sensitive for Canadians who are predisposed to believe they always lose in boundary disputes with the United States. They seem to enjoy the ritualistic weeping, wailing, and lamentation associated with recalling particularly invidious decisions in the nineteenth-century trilateral boundary commissions with the United States and Great Britain—decisions one can be sure that the United States regards as equitable and judicious taken before "Canada" existed as a state.

In more modern times, however, Canada has effectively managed several boundary disputes as demonstrated by resolution of cases in the Gulf of Maine and Saint Pierre and Miquelon, resolutions that came about in efforts to avoid direct confrontations over access to fisheries and potential oil and gas resources. Canadians tend to forget these successes as conclusively as they remember their losses.

The definition of a Canadian is ritualistically amorphous; it has been declared as "not-American"—a rather negative view; however, it is one that makes boundary problems even more pointed when a demographer notes that 85 to 95 percent of Canadians live within

100 to 200 miles of the U.S. border. A little northern slippage of the border and *eh voilà!*, no Canada. Thus Canadian nationalism often manifests itself as maniacally protective of tangibly Canadian elements: land, seas (even ice), and their boundaries. Consequently, almost every U.S.-Canada bilateral issue has been interpreted by the media and whatever political party happened to be in opposition at the time through the prism of Canadian sovereignty. The government of Canada performance is often judged by how well it protects this vague amorphous concept of sovereignty.

Canadians often conclude that they lost or were sold out in every major boundary settlement with the United States until the 1984 Gulf of Maine decision by the International Court of Justice (ICJ). The North American Boundary Commissions that operated to address boundary differences during the nineteenth century usually had three categories of members: Canadian, U.S., and British. Canadians were dismayed when British representatives typically sided with the United States.

In this regard, Canadians see the United States as having gained territory from New Brunswick through the 1842 Webster-Ashburton Treaty. Likewise, there is historical grief from the Oregon and Washington treaties that pushed UK (Canada) out of what became the states of Oregon and Washington, and more angst again stemming from 1903, when Canada lost the Alaska panhandle to the United States cutting the northwest interior of British Columbia from the sea. Even the Germans sided with the United States; under the Treaty of Washington, in 1872 with Kaiser William I as a neutral arbitrator, gave the United States sole possession of the San Juan Islands off the west coast. The Canadians excel at being "injustice collectors"; in their eyes, the United States never has a legitimate case if it contradicts Canada's desires.

For Canadians the extant legal and political circumstances are all but irrelevant. For example, Canada did not exist in 1842; the Washington-British Columbia boundary was a compromise with the U.S. "54-40 or fight" position; and the legalities of the Alaska boundary dispute clearly favored the United States. Historically, colonial powers swapped territories with no compunction for whoever might be living there—aboriginal or citizens. Indeed, the creation of Canada in 1867 arguably was a British ploy to prevent the post-Civil War U.S. military powerhouse from deciding that "Canada" might be appropriate compensation for U.S. *Alabama* claims against Britain.

(These claims resulted from the devastation wrecked on Union shipping by the Confederate raider *Alabama*, which was built and funded in England. Creating "Canada" was a device by London to argue that it could not give away parts of an "independent" country. These claims were the primary topic addressed in the 1872 Treaty of Washington; the San Juan Islands were barely an asterisk.)

The point remains that in Canada's eyes, it gets muscled out in such disputes. These supposedly unfair outcomes ranging back 100-150 years have left a much advertised scar on the Canadian psyche—one which sensitive U.S. negotiators presumably are supposed to take into account by offering "we feel your pain" concessions.

This policy is tiresome for U.S. observers, demeaning for Canadian participants, and festers indefinitely.

Fishing and Boundaries

Until relatively late in the twentieth century, U.S. and Canadian commercial fishers operated off each other's coasts. However, in 1977 each country extended jurisdiction over fisheries from 12 to 200 miles (and earlier had extended it from three miles). The resulting overlaps between the limits of the fishing zones of each country created a number of points of difference in the Gulf of Maine, the Beaufort Sea, the Dixon Entrance, and seaward of the Juan de Fuca Strait. As a result, there is a continuing requirement for Canada and the United States to address these maritime boundaries as well as related fishery and oil and gas issues.

Two Resolved Problems— a Happier Precedent

Gulf of Maine

Delimiting the continental shelf in the Gulf of Maine was a long-time problem. The issue heated when in 1969, the United States protested Canada's issuance of oil and gas exploration permits on Georges Bank up to a Canadian version of an equidistant line. The dispute intensified when the United States and Canada extended fisheries jurisdiction from 12 to 200 miles. In 1981 conflicts evolving from the overlaps of the claimed fisheries jurisdictions resulted in agreement to submit the boundary dispute to a special chamber of the International Court of Justice at The Hague. This ICJ determination of the maritime boundary between the United States and Canada in the Gulf of Maine became the first judicial determination of a boundary for a 200-mile EEZ.

Litigation began in 1982 with the United States vigorously claiming all of Georges Bank. Canada argued for an equidistant line, providing access to about half of Georges Bank. In 1984 the ICJ Special Chamber decided on a boundary that effectively split the difference and gave Canada access to about a sixth of the fishing and potential oil and gas resources of Georges Bank. Canadians were reportedly unhappy with the outcome; however, fishers of the era maintained historical scallop fishing levels and added to their potential ground fish catch. For their part, Canadians "noted with satisfaction that the boundary confirms Canadian jurisdiction over a substantial part of George Bank." Still the decision cost Canada some of the area it had reserved for future offshore oil and gas exploration. For its part, the United States believed it lost a portion of historic scallop grounds. Presumably this outcome qualified as a good decision: each side walking away with something about which to complain.

But the ICJ determination (the "Hague line") dividing the fishing zones and the continental shelf in the Gulf of Maine did not address the landward and seaward extensions of the boundary. Canadian claims of U.S. violations of the Hague Line prompted Canadians to use a submarine to enforce it in the early 1990s. This shortfall in determining the boundary remains the basis for one of the persistent unresolved disputes that should be addressed by Ottawa and Washington.

Saint Pierre and Miquelon

France lost most of its North American territory through war with England in the eighteenth-century, which *inter alia* ultimately resulted in the current "Canada." Peace treaties between Paris and London ceded sovereignty over the essentially trivial islands of Saint Pierre and Miquelon (south of the

Newfoundland coast) to France as a booby prize and to serve as an outpost for its fishing fleet. For an extended period, French and Newfoundland fishing vessels coexisted without incident; the French were not looking for another military defeat in an area where the UK had total military superiority. In the 1960s, concerns about over-fishing the local cod stocks increased, and in 1977 both Canada and France introduced conflicting 200-mile EEZs. The dispute peaked in 1988 as both sides began arresting competing fishing crews under allegations of illegal fishing in disputed waters. In 1989, to avoid escalation of hostility, Paris and Ottawa agreed on arbitration.

At that juncture, Canada argued that French sovereignty should be limited to waters surrounding Saint Pierre and Miquelon, based on a 12-mile limit, totaling 1,070 square nautical miles. Predictably, the French sought to maximize their position, claiming 14,500 square nautical miles according to a boundary drawn between the islands and the Canadian coast to a distance of 200 miles to the south. The French claim cut through the Grand Banks and Canadian cod stocks. It was a perfect case of Gallic overreaching.

In June 1992, a special arbitration court (selected by both countries) in New York ruled. The result substantially favored Canada, and Ottawa's response reflected reserved satisfaction. The court gave France control of only 3,607 square nautical miles based on a 24 nautical mile limit on fishing grounds extending south and west from Saint Pierre and Miquelon and a 200-mile long, 10.5-mile wide southern corridor to the open seas. The decision allowed Canada and France to issue oil and gas exploration permits within their respective zones. The conclusion by expert observers was that France would have done better to negotiate with Canada than to have gone to arbitration.

Consequently, the, proverbial but mythical, abstract observer might conclude that Canada did reasonably well in these cases. The potential for violence among the competing national fishermen pushed authorities to drive arbitration resolutions in both Gulf of Maine and the Saint Pierre and Miquelon cases. However, persistent inaction on several other disputes discussed below implies that Canada will only enter serious negotiations when violence looms—which is not the recommended approach for international diplomacy.

Four Protracted Disputes

The following issues have been addressed either formally or informally, but in low profile, over the decades. By and large, the effort to resolve a dispute has been prompted from the U.S. side—and ignored or dismissed by Canadians. Reportedly different efforts were led by individuals as diverse as President Jimmy Carter's presidential advisor and former White House Counsel Lloyd Cutler in the 1970s, State Department Counselor Edward Derwinski in 1984-88, State Department Legal Adviser Abraham Sofaer in 1989, and State Department official Robert Pines in the early 1990s. Reportedly, then-Foreign Minister Joe Clark sidelined direct requests by both Secretaries of State George Shultz and Howard Baker (in 1984 and 1989 respectively) to resolve the problems systematically. Apparently, there was even an effort in the late 1970s to submit jointly all outstanding disputes to arbitration.

A Note of Background—the Concept of Equidistance

International law generally requires establishing maritime boundaries by agreement to reach an equitable solution. In the absence of agreement or when there are "special circumstances," the continental shelf boundary is determined by the principle of equidistance in the case of adjacent states. An equidistant line would be found half-way between the nearest points on the coasts of both countries. When a special circumstance argument is advanced, it is usually to claim that a boundary should be further from one's coast and, by extension, closer to the coast of the other state. Therefore, when the United States argues for equidistance, it is also saying that it believes there are no special circumstances—and vice versa. The United States argued special circumstance with some success in the Gulf of Maine dispute, but in the following disputes the United States continues to argue for "equidistance."

It takes someone with the genetic mix of a cartographer and an international lawyer to traverse these boundary disputes. Without pretending to have these qualities, looking at the outstanding problems from north to south and west to east, we see the following:

Beaufort Sea

The Beaufort Sea is described as that portion of the Arctic Ocean north of the Northwest Territories, the Yukon, and Alaska, but west of Canada's Arctic islands; it is approximately 170,000 square miles in area. Fisheries are not at issue in this part of the Arctic; at stake are oil, gas, and perhaps mineral development rights, which have become increasingly pertinent as the demand for carbon fuel energy ratchets upward. Various marine mammals are present during the course of the year. U.S. protections for marine mammals are probably stricter than Canadian regulations.

A number of ongoing energy exploration and development projects have demonstrated the potential of the area. For example, the Amauligak Project developed the first functioning oil platform in 1986, producing commercially saleable amounts of oil for the Japanese market. ConocoPhillips currently operates Amauligak and has linked its development to progress in the Mackenzie Delta natural gas pipeline; apparently, there has been little activity since 2010. Multiple energy projects being explored and in preliminary stages of development in the Northwest Territory will have at least an ancillary effect on development in the Beaufort Sea. In July 2008, the U.S. Geological Survey estimated there are more than 400 billion barrels of oil in the Arctic. BP PLC, which earlier in 2008 bid $1.2-billion for the rights to explore three offshore parcels in Canada's Beaufort Sea, said the great petroleum wealth indicated by the report provided added backing for the company's plans.

Nevertheless, resolving the Beaufort dispute is a U.S. priority that Canada has studiously ignored. In 1938, Canada began to claim that the 1825 UK-Russia Treaty (later incorporated into the 1867 U.S.-Russia convention of Alaska cession) establishing the present land boundary between Alaska and Canada at the 141st meridian also established the maritime boundary running out to 200 nautical miles, following the Alaska-Yukon land border. The United States claims an equidistant boundary line perpendicular to the coast out to a distance of 200 nautical miles, and presses for this position to supersede the 1825 Treaty

language, clearly stating that the boundary is the 141st meridian only "as far as the frozen ocean." The difference in positions results in a wedge claimed by both states.

Both countries have protected their interests by going through initial stages of oil and gas leasing for the disputed area. Canada created private party interests in tracts in the disputed area, but no drilling or other significant activity have been permitted. U.S. records indicate that the United States scheduled a lease sale for the area in 1984; the Department of the Interior held the sale but stopped short of creating third party interests by only identifying the high bidders and putting bid money in escrow (which it subsequently returned when resolution of the boundary dispute was not imminent). The United States offered blocks for sale in 2004; however, there were no bids. Each country, of course, has ritualistically protested actions by the other.

Alaska made a run at prompting bids in 2004, inviting bids in the disputed area out to its three-mile limit; Canada protested, and Alaska noted the prospect for Canadian legal action. The United States rejected the Canadian claim; however, Alaska indicated that it did not intend to issue leases in the disputed area at that point.

The dispute is immediately offshore of the Yukon Territory, which essentially remains a ward of Ottawa so far as financial support is concerned, although the 2003 Yukon Act devolved powers over land and natural resources to the territorial assembly. Nevertheless, provincial powers in such areas are limited by political realities—Ottawa will call the tune. Moreover, any resolution has been further complicated by the settlement of the energy-rich Inuvialuit land and resource claim (with the141st meridian as a boundary to the 80th parallel) in 1988 and bedeviled by benighted environmentalism of the ilk that helped scuttle the Arctic National Wildlife Refuge development in Alaska. In 1990 the United States called Canada's good faith into question for concluding agreements that will make resolution of the Beaufort boundary more difficult. The boundary of the Inuvialuit settlement also may have been a calculated Canadian effort to project and protect its sovereignty. A parallel effort in 1988-89 to establish a resource sharing mechanism through exploratory talks in the Legal Advisors channel without directly addressing the boundary also fizzled when Canada backed off.

This dispute has lain fallow for some years—now running into decades—but the rising although erratic price of oil and natural gas and the demand for access to hydrocarbon resources may well provide leverage to drive toward a conclusion. Reportedly there were bilateral discussions in Ottawa in July 2010, with more hypothetically planned in 2011, but there has been little public information regarding any discussion. Nevertheless, a forcing event to drive the issue toward resolution may begin with allowing serious exploration in the disputed areas.

In that regard, after much delay and review, in August 2011 Shell obtained approval for its 2012-13 drilling program in the Alaska Outer Continental Shelf, although not apparently in disputed Beaufort Sea territory. After a difficult 2012 drilling season, Shell suspended its 2013 program citing a daunting array of equipment failures and environmental and safety concerns.

Dixon Entrance and Seaward Boundary

Geographically, the Dixon Entrance is situated between British Columbia and the tip of southeast Alaska (the Panhandle), and the dispute involving it remains a residual element from previous boundary negotiating decisions. The United States believes the maritime boundary should follow an equidistant line as defined above, whereas Canada believes the boundary to be the "A-B Line," a line created by the 1903 U.S.-UK boundary tribunal, which determined the sovereignty of four islands in the Dixon Entrance. In that decision, the tribunal allocated two islands to each party by drawing a line from point "A" on Cape Muzon to point "B" at the entrance of the Portland Canal. Canada contends, with no basis in the boundary tribunal record, that this line also established the maritime boundary. This Canadian version of the boundary leaves little navigable space between Cape Muzon and the boundary; however, the United States has only exerted its full sovereign rights based on the Canadian version of the line. This boundary is a key problem for the U.S. Navy as the Dixon Entrance is the preferred approach for submarines heading for the unique acoustic testing range facility at Behm Canal, Alaska. And historically, Canadians have protested that U.S. nuclear submarines are transiting their "internal waters"; moreover, under New Democratic Party (NDP) governments, British Columbia protested anything nuclear powered (and virtually anything of United States origin) traveling through its territory.

The United States is concerned that extended enforcement of U.S. sovereignty at the "A-B Line" rather than at the equidistant line will damage our claim if we ever reach negotiations or arbitration.

It is historically unclear whether after the 1903 tribunal, Canada behaved as if the "A-B Line" was the boundary seaward of Dixon Entrance; technically, the United States and Canada have applied similar equidistant lines. If the "A-B Line," rather than an equidistant line, were the final boundary line for waters as well as land, the entire fishing area would fall to Canada. Consequently, Canada maintains that this equidistant line is for fisheries only, perhaps reserving its position for a more aggressive claim in the future that could be leveraged by perpetuating vagueness on the issue. Such a claim might come prior to a negotiation to enhance Ottawa's leverage or prior to arbitration to widen the area of consideration—a tactic Ottawa employed prior to addressing the Gulf of Maine dispute.

The disputed area between the "A-B Line" and the equidistant line is an important fishing site for salmon, halibut, cod, and sole. Natural competition and confrontation between U.S. and Canadian fishers have at times been exacerbated by the uncertainty over the disputed zone which exists between the "A-B Line" and the equidistant line. In the 1977 U.S.-Canada reciprocal fishing agreement, both countries concurred with the concept of a "flag state enforcement regime" to be applicable in all disputed maritime boundary areas. This language means that in the various disputed areas, each country enforces its own rules against its fishers, but not against those of the other country—a course that de facto allows Canadian fishers to fish in U.S. waters. Canada has not always abided by the agreement, unilaterally asserting in 1987 that it had no obligation to adhere to flag state enforcement if U.S. fishing vessels engaged in "non-traditional fishing activities"—and claiming that salmon fishing was not "traditional" fishing. Giving this reason, Canada asked U.S. boats to

leave disputed waters and, on past occasions, have seized boats fishing in disputed waters. Washington was not amused—and Alaskans even less so—at this restrictive interpretation. Although the last such incident was in 1997 and a *modus vivendi* appears to have emerged for avoiding conflict, the potential for confrontations, if not active hostilities, continues.

Included among U.S. objections is the rejection of the premise that salmon fishing is not "traditional." Instead, the United States contends all U.S. fishing is traditional. The United States does not accept the "non-traditional fishing" interpretation and contends that the purpose of that convention—to avoid confrontation—is achieved only if jurisdictional actions are avoided in disputed waters. In 1991 this dispute also complicated the military-strategic question of access for U.S. submarines to the acoustical testing station at Behm Canal, Alaska. U.S. submarines used the Dixon Entrance to reach Behm Canal, and Canada, led by then-NDP MP Jim Fulton, generated substantial critical publicity. The Liberal (conservative) provincial government in British Columbia between 2001 and the present reduced the potential for boundary argument. However, the advent of an NDP government (not possible until the next provincial election in 2017) would revive the residual problem, as U.S. access to the acoustical testing grounds remains strategically important, and the argument over federal versus provincial (British Columbia) control of the Nanoose facility remains unresolved.

The Point Roberts Exception

A sanguine exception to the continued unresolved "A-B line" dispute is the working arrangements associated with Point Roberts, Washington, an exclave of the United States, reachable by land only by passing through Canada. The isolation of Point Roberts was largely the result of an oversight by the 1846 Treaty of Oregon. The Treaty set the 49th parallel as the basic U.S.-Canada boundary, bending around Vancouver Island to set the island in Canada, but cutting through the Tsawwassen Peninsula and leaving "Point Bob," an area of about 4.8 square miles, in the United States. With a population of approximately 1,300, Point Roberts requires customs points for the international passage of U.S. citizens into Canada and Canadian visitors to Point Roberts. Various educational and medical services require residents of Point Roberts to drive about 40 minutes to reach Blaine, Washington; however, there has never been a proposal that the area be transferred, sold, or swapped to Canada. Other than a subsequently resolved issue over water supplies during a drought in 1973, neighborly working arrangements have prevailed—perhaps because there are no fish or energy resources at issue.

Juan de Fuca Strait's Seaward Extension

The 1846 Oregon Treaty and international arbitration established the boundary line within the Straits of Georgia, Haro, and Juan de Fuca (JDF). The dispute concerns the area seaward of the JDF strait. Both Canada and the United States publish charts with a slightly varying equidistant line. The small difference is due to the selection of different cartographic baseline points along the coasts of Washington and Vancouver Island. The maximum difference between the lines is one nautical mile, and the total area of overlap is approximately 20 square miles. There are salmon and halibut fisheries in the area, but it is not intensely fished. Overall, there is little at stake economically.

Reportedly the submarine JDF ridge, an area straddling and extending seaward of the western limit of both countries 200 nautical mile claim, has mineral potential. However, historically the great depths and more easily accessible surface alternatives made the sea-based minerals uneconomical to mine.

Ottawa, however, has never been prepared to agree formally on the exact coordinates. One possible reason is that British Columbia wants to link JDF to the Beaufort Sea and Dixon Entrance disputes. Another possibility is that British Columbia has a different position with regard to drawing the boundary, taking a more aggressive position along the JDF canyon that cuts deeply south toward Washington state. The BC position on JDF and the Dixon Entrance reportedly was described in a 1977 paper prepared at the request of Canada (and reportedly has been a longstanding BC position). Anecdotally, it is reported that paper did not argue that Canada should avoid boundary negotiations on JDF or Dixon Entrance, but merely described the BC position should such issues be discussed. There have been numerous instances where the Ministry of Foreign Affairs has blamed British Columbia, and the province has blamed Foreign Affairs, for unwillingness to engage in JDF negotiations. Washington reportedly believes the more aggressive foot-dragger has been Foreign Affairs.

If any dispute is amenable to resolution, it should be JDF. Past evidence that has emerged from BC parliamentarians suggests that the issue is negotiable. The resolution of the Makah Indian tribe court case in 1992 removed a longstanding U.S. obstacle to addressing JDF, an obstacle that aborted an earlier resolution in 1985. Over the years, the composition of the BC legislature has changed, but the May 2013 election continues to provide the United States with a government that is not implacably hostile to rational discussion.

Nevertheless, historically neither side has moved on JDF, citing limited legal resources. The Canadians have insisted that they couldn't act while Saint Pierre and Miquelon was under consideration. That issue, however, was cleared away more than a decade ago. In the early 1990s, the United States completed a "Circular 175," or official bureaucratic request for official authority to negotiate on a particular topic, which essentially authorized negotiations. Sufficient time has passed that the "Circ 175" would have to be renewed. Additionally, the problem of Machias Seal Island interceded in the early 1990s to set back negotiations—and thus becomes the fifth in this series of continuing disputes, as described below.

Machias Seal Island (MSI), the North Rock, and the Gray Zone

The 1984 decision by the ICJ on the Gulf of Maine case settled the east coast boundary dispute except for two gaps in the boundary line. One is near the coast line and the second is at the seaward extension of the boundary line to the edge of the continental shelf.

Seaward

This gap is on the U.S. side of an extension of the ICJ line within 200 miles of Canada but beyond 200 miles of the United States. Both sides claim this "gray area"—Canada claimed it directly; the United States reserved its position. The United States understands that under the terms of the 1981 agreement leading to the Gulf of Maine resolution, the ICJ has continuing jurisdiction to deal with the formal extension of the boundary line.

Reportedly, the United States favors the "deep trench" border and Canada prefers the "equidistant" basis for a ruling. Either side may invoke compulsory dispute settlement: three months of negotiations and, if no settlement is attained within three months, the issue would be submitted to a special chamber of the ICJ. Lacking compelling reasons, however, neither side has asked for negotiations. Extending the line would delimit the continental shelves and the U.S.-Canadian exclusive economic zones except for the area surrounding Machias Seal Island (MSI) and landward.

Landward

The ICJ did not specifically address the gap near the coastline because of the unresolved sovereignty of MSI and the North Rock—an exposed rock about eight hectares in area. MSI is approximately 10 miles off the coast of northern Maine and approximately the same distance south of Canada's Grand Manan Island. The United States bases its claim on the 1783 U.S.-UK Treaty of Peace, which gave the United States sovereignty over certain islands in the Gulf of Maine, including Machias and North Rock. In the 1817 arbitration under the Treaty of Ghent (1814), England recognized U.S. sovereignty over the islands. The Canadian claim, based on the legal concept of adverse possession, argues that the United States ceded its textual claim to the islands when it acquiesced to the construction and maintenance of two lighthouses by the Province of New Brunswick in 1832. Upon confederation in 1867, Canada took responsibility for the structures and has since maintained the remaining lighthouse.

The United States says that under international law, a state may not acquire sovereignty solely by maintaining lighthouses or other navigational and safety aids.

Moreover, the United States also claims that Canada has never truly exercised sovereignty over the islands and, as further evidence, noted that U.S. fishers have regularly fished immediately off their coasts without Canadian enforcement efforts or objection. Washington also argues the United States has protested all "true" assertions of Canadian sovereignty.

The dispute is complicated by some geological evidence of oil and gas reserves and, more importantly for the moment, MSI's status as a seabird sanctuary. In 1944, because of the large number of nesting seabirds on MSI, Ottawa established a bird sanctuary to protect the birds and rookery. By the 1970s, the island had become a popular spot for birders. Entrepreneurial tour boat operators from Maine and New Brunswick have developed a business of landing birders on MSI. To protect the birds, the Canadian government through the Canadian Wildlife Service (CWS) has, since 1985, limited June and July (nesting season) visitors to 30 per day with a boat permit system, splitting the permits on a 60/40 basis, with the United States getting the majority, based on the precedent of historical demand. Canada has used its management of access to MSI as another factor to emphasize its sovereignty claim.

Indeed, the CWS access management system worked well, so much so that boat trips became increasingly popular and more U.S. captains wanted to participate, a development that placed pressure on the system. Maine charter boat captains accepted the Canadian system of distributing permits under protest; the United States confirmed to these captains that they are under no obligation to accept Canadian management. Consequently, there have been some near confrontations between

CWS employees and U.S. captains, and the CWS has from time to time threatened to close the island to visits during nesting season. From the mid-90s to the present, U.S. Fish and Wildlife Service and its CWS counterpart have issued permits to their respective tour boat operators. Canadian personnel are on MSI year-round with additional Canadian scientists often present during spring and summer months.

Over the past 30 years, each country has sent notes asserting sovereignty and protesting actions by the other. For example, U.S. Embassy records showed that the United States protested Canadian action surrounding MSI in 1984 when Canadians began ferrying CWS personnel to the island to protect the birds. In February 2005, the United States protested the building of a boat ramp by Canada on MSI. There has been little Canadian national or provincial interest in the dispute. New Brunswick's disinterest is probably due to the fact that as a Canadian bird sanctuary, MSI is managed as a federal jurisdiction rather than provincial territory.

In 1993 Washington and Ottawa failed to reach formal agreement on joint management of the island's wildlife. The state of Maine's congressional delegation is well aware of the dispute, and in the early 1990s, various other elected officials, including then Senator Edward Kennedy, inquired about its status on behalf of his Maine colleagues. Kennedy, with his family summer home in Hyannis Port, had considerable personal as well as political interest in Maine. But the issue continues to lie fallow.

Moving to Solutions

In many instances, the artful approach to a problem is to wait. In diplomatic terms, one "manages" the problem and hopes it doesn't deteriorate into something catastrophic rather than just irritating. Hope centers around the possibility that the problem might resolve itself (the "wait it out" approach), the other side might forget about it, or a bigger problem might make it irrelevant for an indefinite period (for example, hypothetically, global warming may raise the seas to submerge Machias Seal Island and North Rock). It takes a purist to want to solve, rather than "manage" a problem.

And to be sure, solving or even attempting to solve a problem has its own costs. If one devotes considerable time and attention to resolving a problem—even a nagging and clearly identified disagreement—solving the problem may not have been worth the diplomatic effort unless it is worth that level of attention. The level of commitment to the negotiating effort and the time of senior officials are opportunity costs. Doing "A" means not doing "B"—and trying to do "A", and failing at the doing—doubles the cost. Frequently failure doesn't fall into the sanguine adage that "it's better to have tried and failed than never to have tried" category; but rather having tried and failed "poisons the well" for other issues while making it doubly difficult to resolve that on which one has already failed once.

Given that attitude, a good deal of neglect (whether "benign" or not falls into the eye of the beholder) characterizes the level of attention to these boundary problems. But one can argue that problems not addressed indicate weakness in the relationship. When there is a fear that even addressing the

problems—regardless of the potential for positive, mutually satisfactory solutions—will worsen the relationship, de facto the avoidance worsens the relationship. Permitting "sleeping dogs" to lie eventually clutters up the porch and trying to avoid them may expend more effort in the avoidance than kicking all or a few of them.

Bilaterally we have several options beyond the "do nothing" position that has characterized our bilateral relationship toward the boundary problems that have been described.

A Comprehensive Treaty

There is something to be said about putting all of the cats and carp, dogs and doughnuts into one kettle of mulligan stew. It may prove delicious; it may be atrocious, but this meal of leftovers will at least clean out the fridge. With that philosophy, the United States could propose a treaty or other binding agreement addressing every outstanding boundary dispute. We could set a sequence for addressing the specific issues or permit negotiators to range between them on the basis that "nothing is agreed until everything is agreed." Or we could have a series of "rounds" of set duration during which we would take up one disagreement during a given round. For example, the Gulf of Maine dispute settlement treaty sets a fixed period for negotiations. The approach could include a compulsory dispute settlement mechanism should no settlement be reached on any individual dispute (or on them corporately). We could agree on dispute settlement through the ICJ, as was the case for the Gulf of Maine, or through an ad hoc arbitration panel similar in structure to that used by Canada and France to resolve the Saint Pierre and Miquelon dispute.

Under a comprehensive treaty approach, informal suggestion would be followed by a diplomatic note describing the U.S. plan and requesting a response by a specific date, e.g., three to six months. Washington would, if necessary, force the action to resolve these problems.

We should anticipate a positive reaction, because Canada reflexively prefers negotiations—if only to allow additional opportunity to procrastinate once engaged in them. Moreover, there is the potential for tradeoffs among areas of dispute wherein both countries can be "winners," as well as tradeoffs within specific individual problems. However, if Ottawa rejects the treaty approach, either directly or by failure to respond, we should consider asserting sovereignty in areas of dispute. There are a variety of points of leverage available either to achieve a comprehensive solution or to prompt individualized action. If Canada refuses a comprehensive treatment, it is possible to seek ad hoc solutions to each dispute.

Obviously, there are potential downsides: a treaty would require extended time and diplomatic resources to negotiate; it would need Senate and Parliamentary ratification. U.S. efforts to exert leverage could stimulate Canadian retaliation in one or multiple areas unrelated to boundary concerns—and generate reduced cooperation wherever Ottawa thinks it will serve Canadian benefit.

Arbitration

Arbitration has some obvious advantages. It permits a "clean hands" conclusion for politicized issues. Ostensibly, it should permit Canada to overcome its concerns about dealing one-on-one with the United States on

territorial issues. Canadians place considerable national emphasis on their commitment to the rule of law and a president-to-prime-minister, nation-to-nation proposal would have considerable weight. Ottawa risks appearing truculent to turn it down when it has been so eager for arbitration on topics such as softwood lumber. Moreover, the preexisting arbitration court judgment on Saint Pierre and Miquelon should give Ottawa confidence that an international tribunal can provide both legal and political satisfaction.

For the United States, arbitration could neatly remove the United States from bilateral confrontation or tiresome intimations that we are bullying Canada. Anytime they lose, Canadians assume that they have been cheated by conniving Yankees. But since the United States has strong legal arguments in each dispute, Washington should not hesitate to push for arbitration.

The record suggests that there was an effort to move the disputes to arbitration in the late 1970s. While it is not clear why it was not successful, in any event, senior actors from that generation likely have passed from the scene; consequently, that circumstance and the passage of time permit the current Canadian government to view arbitration as acceptable. Of course, recognizing that anything bilateral was increasingly politicized, the previous Canadian minority government might have preferred anything else rather than entering boundary negotiations with Washington. Having a solid majority following the 2011 election may strengthen Ottawa's willingness to engage on these as well as other similarly vexing problems. Additionally, Ottawa could mousetrap the Opposition by proposing to make its team an "all parties" arrangement, forcing them to "put up or shut up" on the issues.

Nevertheless, a U.S. proposal for arbitration could have nuances. Washington could propose dividing the disputes into East Coast and West Coast packages for separate jurisdictions. The United States could propose "all at once" or submit all issues for decision with a commitment to present them sequentially, as decisions are rendered, or by specific dates. Finally, if Ottawa rejects a proposal for arbitration, or delays responding inordinately, Washington could go public either to generate additional pressure or justify more vigorous action simply from fatigue over the protracted indecision.

Individual Action

Over the years, Washington has offered to negotiate or arbitrate the disputes individually. Ottawa has not responded positively to these efforts. At one juncture, Washington focused efforts on beginning talks on the minor, ostensibly less controversial disputes in hopes that Ottawa might subsequently agree to negotiate the larger issues. No dice. There was no progress even with these tertiary issues. Arguably, Ottawa is not entirely to blame. Over the years, the United States has conditioned Canada to expect the United States to raise and then drop proposals for boundary negotiations when Canada temporized or delayed. Our "Canada corps" of knowledgeable diplomats remains thin. Canadians must have taken lessons from Quintus Fabius Maximus, Roman military leader in 217 BCE. Fabius was given military authority following a significant Roman defeat by Hannibal, the Carthaginian military genius. Once in command, Fabius avoided battle, attempted to harass and wear down Hannibal—and was labeled "cunctator" (delayer) for his tactics. There certainly has been no Canadian rush to engage. Canada the Cunctator?

But the United States has never insisted on negotiations or used the many leverage points available to force issues. In the grander scale of the bilateral relationship, it has been easy to set aside these individual problems when more pressing economic or international agendas have elbowed their way to the front of the queue. Happily, these boundary disputes are not Alsace-Lorraine, and lawyers, not armies, are the contenders. With little incentive to move on its own and since if you don't play, you don't lose, Ottawa has simply waited for the United States to shift to other issues—and it has.

Indeed, one former State Department Canada Desk director recalled hypothesizing a stand-alone trade-off between Machias Seal Island and the "A-B Line" controversy in Alaska and British Columbia. Ultimately, it never advanced beyond the hypothetical as local interests were perceived as overwhelming trade-off possibilities.

If Washington decides that resolving boundary issues is a substantial bilateral priority and wishes to do so by direct negotiations rather than international arbitration, the United States must devote resources and executive energy to do so—including a significant amount of legal support. History has already demonstrated that it cannot be done on the cheap with episodic attention by mid-level or even senior officials.

Washington will have to convince Ottawa that despite the episodic, on-and-off again approach of the past, this time it is serious. Following that judgment, the United States must continue to pursue the topic persistently until the issues are resolved. We must convince Ottawa that we will no longer take "no" for an answer. This doesn't mean being heavy-handed, but it certainly requires being steady-handed. We should exert enough pressure to get the job done, but not be bashful about protecting U.S. interests. There is always a political rationale in election timing that argues for "later," but we can take comfort in appreciating that we have had tough, even bruising negotiations over the Free Trade Agreement (FTA), the North America Free Trade Agreement (NAFTA), and associated trade complaints without undue damage to the bilateral relationship. Nevertheless, Washington should be intellectually prepared for a level of effort commensurate in time and intensity to a NAFTA negotiation or a softwood lumber dispute.

Moreover, boundary issues will have to be persistently addressed at the highest levels. Following U.S. national elections in 2012, despite the unchanged presidential outcome, there are "new brooms" in Washington and Ottawa. And the current U.S. administration looking to "do diplomacy differently" so far as Canada is concerned could do a lot worse than deciding to do the equivalent of a little backyard maintenance by professionally finishing these boundary issues. The Canadian majority government could well take the same approach. Consequently, these can be regarded as basic "housekeeping" problems that should be identified on the agendas of both senior leaders, building on the first-term initial ritualistic encounters that created an atmosphere of civil collegiality. After a commitment by the president and the prime minister, the effort for regular monitoring can be devolved to the secretary of state and the minister of foreign affairs for kickoff negotiations and then to standard full teams of negotiators. It will probably require a well-staffed interagency taskforce prepared for a long haul.

The impetus for negotiations may be spurred by briefly reviewing the priorities involved with the specific issues.

Beaufort Sea

The driving concern behind the Beaufort Sea dispute is the off shore oil and gas potential for the area. Every media cycle seems to generate a new, semi-breathless prediction of limitless gas and oil resources in the Arctic, e.g., a July 2008 report by the U.S. Geological Survey of over 400 billion barrels of crude beneath the Arctic ice. However, because of the reality of energy extraction (location, location, location, as for any real estate), it has been historically difficult for either Canada or the United States to assert control by means other than executing the early stages of oil and gas exploration leases and then holding off on awarding bids. At this juncture, it appears that both sides have been fairly consistent in protecting their positions. Some steps:

- The United States could push to complete the leasing process leading to oil and gas exploration in the disputed zone. Given the unclear status of the area, there may still be no takers—as has been the case in the past. On the other hand, the decision by BP PLC earlier in 2008 to bid $1.2 billion for the rights to explore three offshore parcels in Canada's sector of the Beaufort Sea suggests greater interest. And the 2011 award to Shell for prospective drilling in 2012-13 in the Beaufort Sea may constitute a bureaucratic as well as a technical breakthrough, despite Shell's technical problems in implementing its drilling and exploration.
- Direct action by the United States could bring Canada to the table to negotiate either resource sharing or the boundary, or at least commit to an agreement to arbitrate. Alternatively, it could prompt Canada to complete its own leasing process and begin direct exploration in competition.

If the United States addresses this dispute separately rather than as part of a comprehensive package, it could use leverage generated from the negotiation to prompt Ottawa to sign on to a comprehensive solution addressing all disputes.

On the other hand, the impetus to resolve outstanding petroleum and energy disputes may be totally absorbed by the Alberta tar sands issue and the legal battles with environmentalists over the Keystone XL and Northern Gateway Pipelines. Engaging in a negotiation over oil in the Arctic is sure to energize hostile environmentalists. Moreover, the potential energy massively available through "fracking" may well put interest in high cost, high difficulty Arctic hydrocarbons into the deep freeze indefinitely.

Dixon Entrance

Since 1977 the United States has done a good job of respecting and adhering to the Canadian version of the maritime boundary, that is, the "A-B Line." Nonetheless, the Canadians have continued to fish in the disputed zone and have on occasion harassed U.S. fishers there after agreeing not to do so. Thereby Canada has asserted intermittent control over U.S. waters. If not contested, the current regime reduces U.S. fishers to sharing the available catch with Canada and bars eventual development of any future hydrocarbon reserves to be found in the area.

Some additional impetus:

- Failure to enforce the 1977 agreement may erode the U.S. claim. If Ottawa does not address the issue, it should anticipate Washington will protect the rights of U.S. fishers with U.S. Coast Guard vessels, if necessary, as well as reject the 1987 Ottawa restriction on "non-traditional fishing."

- Moreover, Washington can remind Ottawa that the U.S. position is that the Dixon Entrance boundary is the equidistant line and offer to negotiate the entire boundary, including the 200-mile EEZ and the continental shelf as part of a comprehensive settlement.

- Somewhere along this continuum, from enticement to enforcement, Ottawa will come to the table. Given the sensitivity of Dixon Entrance for Ottawa, the Canadian government may prefer to negotiate a third party arbitration agreement. Washington should continue to press for resolution of all boundary agreements.

A final resolution should also resolve the division of the 200-mile EEZ and the continental shelf. The United States must seek to eliminate future opportunities for maritime boundary disputes. Conceivably resolving the 200-mile EEZ could have beneficial effects for all of the boundary problems, although one should never underestimate the ability of those with an interest (and a lawyer) to find further problems. However, such an approach would be further argument to accelerate the effort to solve existing problems now.

Machias Seal Island

Discussions between the Canadian Wildlife Service and U.S. Fish and Wildlife Services (USFWS) have resulted in an uneasy *modus vivendi* and "agreement to disagree." However, the United States may want to resist the temptation of accepting the same arrangement for future years. If we maintain our current policy on MSI, the potential exists for future confrontation as U.S. tour boat operators see their livelihood imperiled. Ottawa has discounted this possibility, but the history of our discussions on MSI suggests that only confrontation impels the Foreign Ministry to talk. If talks can be instituted, both countries presumably will reserve their sovereignty positions, but the birds will be safe and access controlled, although a dispute might technically remain.

Some considerations in moving forward:

- A more proactive strategy with direct U.S. management of Maine tour boat operators in accordance with conservation principles could mean limiting Canadian access to the island and hiring U.S. personnel to monitor access with U.S. Coast Guard support.

- Managing access for U.S. captains does imply joint management and may weaken the U.S. claim, but equally weakens the Canadian claim.

- Such an approach may stimulate the Canadians to move past their legal position of blithely contending we have no case for sovereignty to discuss joint management, addressing the key issues of continued protection for the nesting birds and access for U.S. and Canadian tour boat operators based on historical usage. We could then move to a formal agreement, either through arbitration or a bilateral accord.

However, rather than allowing events (and legal lethargy) to control the dispute,

the United States could also exercise its option under the Maine Boundary Dispute Settlement Treaty. The United States could invoke negotiations (with mandatory dispute settlement) for the extension of the boundary to resolve the remaining dispute over the "gray area" seaward of the present termination point of the boundary.

Juan de Fuca

Until the emergence of the MSI issue in 1992, the United States spent considerable effort working to resolve the microscopic boundary difference seaward of the Strait of Juan de Fuca. This is a pointless dispute with few U.S. interests directly affected.

The true dispute is between the Canadian version of equidistance and British Columbia's apparent version of the boundary, cutting sharply toward Washington state. The real BC position on the issue is unknown—it is implied from positions by previous governments rather than one with a clear high-level endorsement from the current government. Some steps:

- Washington may be able to make some mileage with Ottawa by a direct approach offering to compare satellite maps to determine where the line will be drawn.
- The United States should insist that Canada and the BC government sort out their differences on an essential trivial point. The United States should make it clear beforehand, albeit privately, that the reported BC desire to draw the boundary deeply south toward Washington state is simply unacceptable.

If Ottawa's real desire is to pull the several West Coast issues into a single negotiating and arbitration forum, Washington should be accommodating; indeed, we should make such a proposal ourselves.

A Final Observation

One might also make the realpolitik judgment that "only Nixon can go to China," that is, that no Tory or Conservative approach to improving relations with the United States will be acceptable to the Liberal or New Democratic parties—without cringing U.S. acceptance of the Canadian position. This was certainly true with the Conservative minority government. Even the current majority Tory government probably would hesitate to give the Opposition a convenient stick with which to belabor them in the next election, regardless of it being years into the future—since no outcome could be regarded as satisfying to Canadian nationalists. Such nationalists continue to denounce the FTA and NAFTA that are now almost 20 years in the past.

On the other hand, a Liberal government (unlikely as it might seem at the moment) or even a coalition-of-the-left might be more willing to take up the cudgels—if only from belief that they would win. Or at least they could win sufficiently to demonstrate that they can deal effectively with the United States. Whether they won (or lost) on technical points, such a government could spin the conclusion to political benefit—and the Tories would probably just look the other way or, in any event, be less critical of a Liberal or NDP agreement than the latter would be of a Tory accord. Thus the United States might conclude to continue its waiting game—for years—until eventually the Opposition returns to power. The prospect of a Liberal or NDP return is simply a matter of political reality in a democracy—the "outs" return to "in"

status—and then Washington could maneuver to entice, shame, or persuade them into negotiations that would finally stamp "paid" on these tag-end issues.

But such a put-it-all-in-the-too-hard-box approach is definitely a second choice and implicit recognition of defeat. Governments are elected to solve problems—and these are solvable, mini rather than maxi challenges.

A Codicil: The Jay Treaty and the Saint Regis Mohawk Reservation

One exception to the "solve it" maxim is the tripartite interlock between Canada, the United States, and the Mohawk nation occupying land in Ontario, Quebec, and New York. Designed in 1794 to resolve residual border and economic issues left from the 1783 Treaty of Paris, the Jay Treaty (and subsequent adjustments and reaffirmations) included provisions to facilitate travel between Canada and the United States that ultimately have resulted in a judgment that "Native Indians born in Canada are … entitled to enter the United States for the purpose of employment, study, retirement, investing, and/or immigration." It has been widely interpreted as permitting unimpeded trade by such natives—and there has been the rub.

The Saint Regis reservation, also known by its Mohawk name, Akwesasne, has become a virtually independent enclave and the source of endless smuggling of cigarettes, alcohol, drugs, firearms, and prospective immigrants. Policing has been indifferent with Mohawk leadership insisting on policing done only by native officers whose "look the other way" attitude implicitly facilitates the smuggling. The prickly and more than occasionally aggressive nature of Mohawks has prompted confrontations over native rights, leaving Canadian authorities inclined to temporize rather than to act. Despite persistent tax evasion regarding the sale of tax-free gasoline and cigarettes from the reserve, U.S. authorities have also declined to grasp this nettle. Nor, as long as Mohawk violations remain financial rather than questions of border security, is the United States likely to take action.

And Another Codicil (Inland Waters)

It has been marginally easier to address the problems of internal waters of lakes and rivers than international seascapes. Perhaps that has been the result of pure necessity; we really *must* work something out when rivers are flooding, lakes are polluted, "foreign species" are killing off native fishing, and transits through Great Lakes and the complexities of the Saint Lawrence Seaway demand regulation—now.

The 1909 Boundary Waters Treaty prohibits water diversions that have not been approved by the U.S. and Canadian governments as well as pollution "on either side to the injury of health or property on the other." The treaty also created the International Joint Commission (IJC) through which Canada and the United States can resolve cross border water disputes. The rub? Both countries must agree to invoke the IJC powers. Thus there are gritted teeth exercises—some solved, others not—that grind away at the patience and test the diplomacy of both countries:

- *The Gut Dam Damages*. In 1903 Canada, with U.S. permission, constructed the Gut Dam (partly on U.S. territory) to regulate Saint Lawrence River water flow. U.S. agreement posited that should the dam result in damages or injury to local residents or any U.S. citizens, Canada must pay

compensation. In 1951-52, waters in Lake Ontario and the Saint Lawrence reached unprecedented levels, damaging the property of U.S. citizens. Claims efforts began in 1952 with Canada contending that compensation was limited to Americans directly at the dam site (the time had expired for any claim of damages as of 1908). Ultimately, in 1965 the Lake Ontario Claims Tribunal was established with its chairman a Dutch official from the District Court of Rotterdam. In 1968 the United States prevailed with a judgment that time had not expired for claims and that all affected U.S. citizens were eligible for compensation. It was an appropriate if limited judgment ($350,000 paid to the United States for all damages). Getting there was not half the fun—16 years from the original claim—with the pleasure akin to taking a bath in a washing machine (you get clean, but beaten up in the process).

- *The Pembina Dike and Devils Lake.* Starting in the 1940s, Canadians along Manitoba's border with Pebina County, North Dakota, started to build an elevated road that also served as a dike to prevent floods from the south from also submerging their farm lands. Efforts to find collegial solutions have remained uncollegial for decades. At one juncture, U.S. citizens dynamited portions of the dike, ultimately to no effect.

  Simultaneously, albeit slowly, the local Devils Lake has tripled in size, inundating substantial amounts of U.S. farmland; the lake has no natural outlet. The proximate solution is a diversion that would pass water into the Sheyenne River which flows north, ultimately into Lake Winnipeg. Canada rejected the solution, saying that Devils Lake waters are polluted and contain invasive species. Prospective solutions were expensive: filters for Devils Lake water, or the removal of the "dike" aspects of the Pembina road to allow water to flow south to north.

- North Dakota has claimed that the Pembina dike constitutes an illegal diversion of the waters as prohibited by the 1909 Treaty. And the Canadian plaints about polluting Lake Winnipeg are risible—the lake is one of the world's most polluted; water from Devils Lake, regardless of filtration, would barely make a difference. As is normally the case with litigious neighbors, the issue landed in court; however, in May 2012, agreement was reached to permit pumping from Devils Lake into the Sheyenne River ultimately designed to lower the lake's water level. It wasn't necessary to invoke the preferred solution for many Americans—dynamite.

- *The Great Lakes Water Quality Agreement.* Created in 1972 and modified in 1978, this is a bilateral arrangement that works—most of the time, albeit slowly. Its efforts are overseen by the IJC and designed to "restore and maintain the chemical, physical, and biological integrity of the Great Lakes." The Great Lakes have been the Great Dumping Ground for every sort of waste and pollutant. Invading species of the "bait bucket" variety and the results of ships flushing out ballast water from their tanks are an annual problem. Happily many of the exotic species are killed each year by extreme cold, but others challenge native species for dominance. (The agreement does not endorse "survival of the fittest" but rather preservation of local species).

- It is difficult to track industrial wastes and chemical pollutants as they are whisked to the Atlantic Ocean by the high speed currents of the Saint Lawrence River. Their speed reduces the ability of monitors to track them and the impetus of violators to reform. Still the most recent IJC report (May 2013) indicated decreases in many older chemicals present in herring gulls, fish, and sediments from the 1987-2000 levels. Conversely, some newer chemicals have increased considerably in fish during the same period. Moreover, although a number of nonnative aquatic species have been introduced into the lakes, none has established themselves since 2006.

On many of these topics, U.S. representatives on the IJC have thought privately that their Canadian counterparts talked a better game than they played. Canadian antipollution laws appear stronger in print than U.S. analogues, but are not enforced commensurately. Nevertheless, ultimately there is win-win potential for cooperation, and both sides have committed environmentalists as representatives.

3 ARCTIC SOVEREIGNTY—ARCTIC ANTICS

Of all of the boundary and border issues in play between the United States and Canada, only Arctic sovereignty and the Northwest Passage (NWP) issue reaches any level of public visibility. It is a "sexy" topic, one that engages our collective imaginations in the old tales of historic North Pole expeditions, the tragic fate of lost explorers (the Franklin expedition), the search for a Northwest Passage to the Orient, "Eskimos" and dog sleds, and Cold War submarine and anti-submarine operations. That retrospective ancient history is combined with new concerns for future history, such as "global warming" and Arctic melting, oil exploration, and conflicting territorial claims by multiple claimants.

For Canadians, the overriding issue is ownership and control of the area—or "sovereignty"—which is really a two part (land and water) question. For the United States, it is not an issue and is not regarded as a "boundary dispute." In simple terms, while the United States accepts Canada's sovereignty over the land, the Northwest Passage is international waters, and Canada's position in this regard is simply self-aggrandizing, self-defeating, and incorrect. And there lies the rub: Canada wants something and its likelihood of securing it is somewhere between minimal and nonexistent. Periodically Ottawa plays loud politics for domestic consumption that only generates animosity.

Reviewing the Bidding

For centuries the Northwest Passage issue was irrelevant in all practical terms. Europeans, in seeking a route to the Far East that did not require passage around the Cape of Good Hope at the southern tip Africa, had concluded by the end of the fifteenth century that by sailing west they could eventually reach the east. In so doing, they ran into the Americas. Groping along the edges of what only slowly became recognized as a continent, it took them a long time, in wooden hulled ships without global positioning systems and satellite photography, to appreciate that there was no straight line access to the Pacific Ocean. Explorers sailed up the Amazon, up the Saint Lawrence, up various U.S. river systems (even the Potomac), and into Hudson Bay. A lot of men

tried; a lot of men died. Ultimately, they came to appreciate that by expending substantial-to-enormous effort and expense, their choices were to cross the Isthmus of Panama (and die from tropical disease) or sail around the tip of South America (and die from storms) or work their way across North America, taking their chances with Indians, desert, mountains, and distance. Death was not inevitable, but transits were arduous and risky. Was there any better and faster route, perhaps during summers, in sailing across the northern route?

The answer—for several centuries—was "no." There was no clear, neat (albeit difficult and dangerous) equivalent to Cape Horn, where the continent comes to a distinct end and once around it there is clear sailing into the Pacific Ocean. Factor in that reality, while digging a canal across Panama was intellectually conceivable, it was not technically possible until the beginning of the twentieth century. Even when completed, the canal has limited capacity; the ongoing construction of additional capacity will still leave the canal limited. Traversing the American continent, certainly before the transcontinental railroads were built, was slow and cumbersome; "prairie schooners" didn't carry that much cargo and logistic support for travelers was limited.

Thoughts thus traveled northward. For its part, the northern route was extended and indistinct; it was filled with huge islands, clogged with ice, replete with dead ends. It was not at all clear that there *was* a water passageway. Any sailing vessel would have to be prepared both to break through ice, and resist ice pressure on its hull if trapped late in the season and forced to "winter over." It was not until 1854 that anyone transited the passage, and that explorer, Robert McClure, did much of it by sled. It was more than 50 years later in 1906 that a Norwegian, Roald Amundsen, made the first maritime passage, and it was another 40 years before a Royal Canadian Mounted Police (RCMP) ship, the St. *Roch,* sailed through the passage in both directions in 1944. These were magnificent, indeed heroic, technical accomplishments, but they were not going to provide a practical route across the top of the world either for naval or commercial vessels. From 1906 until 1987, there were only 36 recorded passages through the straits. Indeed, in 2006 it was noted that little more than 100 ships had ever made the passage, including summer sailboats piloted by adventurous crews with "it passes all understanding" courage.

Canada's dispute with the United States in this regard is now more than 40 years old. In 1969 the *SS Manhattan,* accompanied by two U.S. Coast Guard ice breakers, made a west-to-east transit starting from the Beaufort Sea. Canada was not notified: the three-nautical-mile limit was all Canada claimed at the time. The problem became much more pointed in 1985, when the U.S. Coast Guard icebreaker, *Polar Sea,* transited the passage without Canadian consent. Canada was informed and provisions were made for observers, but Ottawa's consent for the passage was not requested.

The result was a classic case of manufactured and politicized outrage in Ottawa—directed against the new Mulroney government and the equally new U.S. government. That the national leaders were a Republican president and a Tory prime minister was hardly coincidental to the level of Canadian complaint. An anecdotal account of the Reagan-Mulroney discussion during Reagan's April 6, 1987, official visit to Ottawa has Reagan, prompted by Mulroney's urging, adding the following text to his address to Parliament.

"The prime minister and I also had a full discussion of the Arctic waters issue, and he and I agreed to inject new impetus into the discussions already underway. We are determined to find a solution based on mutual respect for sovereignty and our common security and other issues."

Such language prompted a 1988 agreement on the Arctic that separated the consent issue from the sovereignty issue. Reportedly, the United States agreed to seek consent from Ottawa; Canada agreed never to say "no." And that, essentially, is where the problem has remained for more than 20 years—what the United States has termed an agreement to disagree. Canadians, when needing a podium from which to fulminate or a straw man to incinerate, declare the NWP to be their Arctic.

The Legalities

Every boundary issue is an exercise in lawyering, and the Arctic is no exception. Consequently, there are a variety of rather exotic arguments and counter arguments involving *inter alia* definitions of coast line, the geographic spot from which "perpendiculars" can be drawn, where various underwater "ridges" begin and end to determine continental shelf, and the often murky language of the Law of the Sea Convention. These permutations defy anyone who is not a cartographer who is also an international lawyer, having devoted a professional lifetime to maritime law.

Thus it would be simplistic to attempt to go beyond the most basic observations. Canada contends either

A. the NWP is an internal strait, akin to the Ottawa or Rideau Rivers. In this regard, in January 2006, the Canadian government reportedly stopped identifying the waterway as the Northwest Passage and began referring to it as "Canadian Internal Waters"—a bit of verbal aggrandizement; or

B. the waters are "territorial waters" over which Canada has legal jurisdiction based on application of straight baselines that project into the sea, purporting to enclose international waters.

The consequence of either approach, according to then Foreign Minister Pierre Pettigrew in an April 2005 speech, would be to permit international navigation "so long as conditions and controls established by Canadians to protect the security, environmental, and economic interests of our northerners are met," and that Canada intended to work to ensure that it exercised control over foreign vessels transiting the NWP. And it is exactly that level of self-defined carte blanche that would worry a non-Canadian.

Without attempting to enumerate the legalities, the Canadian case does not appear to have any chance of success. No state (nor the EU) accepts the Canadian position. Consequently, some nongovernment commentators have argued that Canada would be well advised to accept the international nature of the NWP and concentrate on assuring its protection from environmental hazards and developing safe, assured navigation for vessels in passage.

Instead, through various activities of the Arctic Council and the "Arctic Five" (Canada, the United States, Russia, Denmark and Norway) foreign ministers (the Arctic Council most recently met in May 2013), Canada seems more focused on creating conditions

that would give it implicit control over Arctic waters and operations, such as navigational rules and shipping regulations, potential oil-spill environmental cleanup, and search and rescue. The May 2011 meeting resulted in an agreement among Arctic Council countries to enhance search and rescue cooperation in anticipation of catastrophes of the plane crash, cruise ship sinking, or oil spill variety. If responsibility for such concerns is ceded to Canada, explicitly or implicitly, over time it will build a case for de facto sovereignty in what had previously been international waters.

Canada's U.S. Problem

The U.S. refusal to accept the Canadian position on the NWP arose most recently in January 2007, immediately following the Conservative federal election victory but prior to Stephen Harper officially assuming the position of prime minister. During a discussion on bilateral relations at the University of Western Ontario, then U.S. ambassador David Wilkins, noting the traditional differences on Canadian Arctic sovereignty, reportedly said, "We don't recognize Canada's claims to the waters." But "there's no reason to create a problem that doesn't exist. We have simply had a disagreement over this and we've agreed to disagree. And there's no reason now to say there's a problem…"

This unexceptional statement was seized upon by Harper at a subsequent news conference to distance himself from the Bush administration by wrapping himself in the maple leaf. He huffed, "We have significant plans for national defense and for defense of our sovereignty, including the Arctic," and he continued that the Canadian government takes its mandate from the Canadian people, "not the ambassador from the United States." Subsequently, the State Department press spokesman was prodded on the status of the NPW and the need for the United States to request permission to transit the strait. The response was direct and definitive, "We believe it is an international strait. It's a longstanding policy of the United States."

Nevertheless, Prime Minister Harper has made the Arctic one of his talisman images. Each summer now for eight consecutive years, he trudges to the Arctic and makes claims, economic assistance promises, and pronouncements. He is channeling earlier Tory prime ministers (John Diefenbaker and Brian Mulroney), who each made the Arctic one of his defining political themes. Thus, along with plaudits for the Canadian Forces engaged in regular training exercises, one hears announcements such as building an icebreaker to patrol the region, constructing a deep water port near Iqaluit, and various plans for economic development. It is a combination of bombast and posturing that sooths Canadian psyches.

And so in 2010, the prime minister declared that "…the No 1 priority of our northern strategy is the promotion and protection of Canadian sovereignty in the North." At roughly the same time, then-Foreign Minister Lawrence Cannon emphasized that exercising sovereignty in the North is an "absolute foreign policy priority." Comparable words are delivered annually.

A Warming Arctic

The spoon now stirring the witches brew in the Arctic is the prospect, projection, or possibility that "global warming" will create circumstances that open the NWP to significant commercial traffic—at least during the summer. There is a plethora of studies

noting developments such as thinning ice, damage to existing infrastructure, rising temperatures, and greater openness in the NWP that prompt speculation and inspire further investigation, research, and study. There also exist studies that call such conclusions into question—but no matter. Whether or not climate change or global warming exists as climatologically accurate fact, it is a political reality to be addressed.

The potential commercial utility of such a development cannot be understated. The Asia-Europe route is 9,000 kilometers shorter than transiting the Panama Canal and 17,000 kilometers shorter than venturing around Cape Horn. Increasing energy costs will affect a global supply line, and shipment through the NWP could be a mechanism to offset rising costs.

On the other hand, neither should the consequences of such theoretical warming be overstated. A near-term projection had the NWP ice-free during the summer by 2013, but also offers a time-frame range running until as late as 2040. And that is only during a relatively undefined (but very short) "summer." Moreover, there are other potential hazards, e.g., the elimination of softer, first-year ice might open the way for "old" ice to drift in and block channels, old ice being harder and more dangerous to shipping. Arcane studies suggest there is more sea ice now than in earlier, warmer periods—but these analyzes hypothesize problems should warming continue.

Additionally, there could be local congestion of commercial traffic due to high winds and dangerous currents. It will never be the equivalent of a Panama Canal passage (and the ongoing construction of a second Panama Canal makes an Arctic route even more problematic). Consequently, one might question whether companies will make the major investment in more ice-resistant super tankers or container vessels to take advantage of a transient and unreliable climatic window. Or whether the global economy, beset by Great Recession strictures, will recover sufficiently to make such a route attractive in any realistic near term.

Energy Excitement

Nevertheless, the prospect of easier and more protracted access to the Arctic and increasing prices of oil, has prompted greater attention to potential oil and gas reserves in the Arctic. These reserves are somewhat breathlessly described as "up to 25 percent of the Earth's oil and gas reserves" and various contenders in the "race" to secure claims are described in horse and jockey terms. So the United States, not to be left behind, in 2008 budgeted upwards of $5.6 million to assemble hardware and scientific expertise to investigate the region. This effort is at least mildly ironic in that unless the United States ratifies the International Convention on the Law of the Sea (which it continues to decline to do), the United States is not legally qualified to make a claim. Although there has been substantial political support since the convention was agreed in 1982 (and subsequently more than 150 states including Canada have acceded to the regime), conservative opposition in the U.S. Senate has prevented ratification as of mid-2013. The United States has observed treaty provisions, and President George W. Bush urged Senate ratification in May 2007, but as time expired on the Bush administration, no action was taken. U.S. Secretary of State Hillary Clinton took up the cudgel at her confirmation hearings in January 2009 and there was repeated (to no avail) positive testimony by senior military and political figures in 2012. Presumably,

opponents believe that in the long run, the United States has enough economic and political muscle to assure itself an appropriate slice of any energy reserves, regardless of official adherence to the Law of the Sea Convention.

Or, perhaps more cynically, they believe that just as environmentalists have made it impossible for decades to drill for oil in the Arctic National Wildlife Refuge (the area identified for drilling reportedly is the size of Dulles International Airport in Virginia), the likelihood of drilling continental shelves in the Arctic Ocean is unlikely as well.

Thus it was amusing rather than challenging when a Russian submarine planted the Russian flag under the North Pole in August 2007—a political circus trick that has not been repeated. Equally amusing was a wild claim by the Las Vegas-based Arctic Oil & Gas Company in March 2008 that the United Nations act as the sole "development agent" of Arctic seabed oil and gas, contending that the region has never been controlled by any country and thus is open to claim. But the comic opera buffoonery does illustrate that Arctic economic potential is or at least appears to be more real than at any previous point in history. It will require that the United States and Canada give it sufficient attention to assure adult supervision.

So Why Don't We Just Recognize Canadian Sovereignty?

In discussions of this point, Canadians, whether naïve or disingenuous is unclear, will ask in effect, "Don't you like us? Why not recognize our sovereignty over the Northwest Passage?" Others attempt to argue that if the United States recognizes Canadian sovereignty, it will give Ottawa leverage to require comparable recognition from the EU, Russia, and other major naval states or those with a significant flag-bearing commercial fleet. And, thereby, it will be to U.S. benefit in controlling Russian access to the region.

There are several levels of response. The most prominent and most polite is the "precedence" argument. Canada is hardly the only state with international straits over which they want and seek legal control. If the United States recognized Canadian sovereignty over the NWP, countries such as Indonesia (Straits of Malaca) and Iran (Straits of Hormuz) would demand comparable treatment and recognition of their sovereignty. Other states with settled agreements on international straits (the Dardanelles) might be tempted to reopen these agreements. Denying states such as Indonesia a right accorded Canada would damage our bilateral relations, not to mention irritate other major naval powers that want to continue enjoying unfettered transit through all international straits. As a major global naval power, the United States requires maximum flexibility in moving naval vessels and will carefully avoid potential restrictions that would be created by recognizing state sovereignty over what are now international passageways.

Thus, at this juncture, we have the regime that we need: not broken; no fixing necessary. We can move our fleet through international waters without question of notification or access. No one can gainsay us. Recognizing Canadian sovereignty over the NWP would gain us nothing except another echelon of grief and the potential for gratuitous hindrance bilaterally and internationally.

But there is another element to the U.S. position; one that is less polite, and consequently unmentioned. At base, the

United States does not trust the Canadian government to provide total, instant, unfettered transit for U.S. naval vessels. Perhaps that would not be an issue with *this* government or with *that* government, but are we willing to bet that the Canadian government in 2020 will be as accommodating? Not if you are a naval commander in the Pentagon making war plans.

To sketch a scenario, imagine the following. A crisis in Asia, perhaps on the Korean Peninsula or in the Taiwan Strait, requires major naval reinforcement for its sequester-reduced Pacific fleet from East Coast or Mediterranean-based naval vessels. It is summer and the NWP is open—but the Canadian government is a Liberal (or NDP) minority dependent on the Opposition to remain in power. Or the government is in the midst of an election campaign when U.S.-bashing is irresistible. And the government either loathes the Washington regime or cannot chance being labeled Uncle Sam's toady. Perhaps it disagrees with U.S. objectives and rationales for military action; there has been no UN endorsement of U.S. action. So Ottawa prevaricates when responding to a U.S. request for innocent passage through the Canadian territorial waters of the NWP. Ottawa doesn't say "no," but insists that it has profound concerns over radioactive pollution of the environment from U.S. nuclear-powered warships. Or it professes deep reservations over potential oil leakage from accompanying tankers. Or it is concerned over the effects that these vessels will have on the polar bear habitat. And it constitutes a parliamentary committee to review and study the issue. (Perhaps *sotto voce* Ottawa will say "Remember the Keystone XL Pipeline.") Can anyone say that such a scenario is impossible?

And there have been proximate illustrations of Canadian willingness to interfere with U.S. maritime rights.

Although it is virtually lost in Canadian history, the U.S. Navy remembers the effort by British Columbia's NDP government in 1999 to deny U.S. submarines (which were, indeed, nuclear powered) access to the Nanoose torpedo testing facility. The Canadian government expropriated the base to prevent interference; however, it was returned by federal court action to the province in 2002, leaving its status unresolved.

Likewise, a Conservative Canadian MP in April 2006 claimed that the federal government could prevent U.S. tankers from transiting Passamaquoddy Bay in New Brunswick to reach a port in Maine. He contended that there was the prospect of accidental spill by liquefied natural gas tankers transiting the strait. However, going to prospective facilities in Canadian ports (an observation others might conclude had crass commercial motives rather than elevated environmental concerns) would be a perfectly splendid idea.

But the point is made. Canadians have been quite willing to exercise political or other rationales to prevent innocent passage by U.S. vessels.

Moving Forward

It is probably too much to expect that Ottawa will back away from its sovereignty claims over the NWP; it has invested too much political credit in the argument. It would probably take a "Nixon goes to China" level of political courage to face the reality that the NWP is not and never will be subject to Canadian sovereignty. To date, it has simply been too

easy a platform for nationalist bombast to be abandoned. Indeed, it was probably only by advancing the commitment to defend the Arctic sovereignty claim in its 2008 "Canada First Defense Strategy" that the Tories hoped to avoid the axiomatic changes by the Liberals, the NDP, or the Green charges that any military spending is too much.

Canadian defense officials then projected that Canadian Forces are going to assert sovereignty over the region with three new armed icebreakers and a variety of coastal vessels. A skeptic might respond that these icebreakers (reportedly a $1 billion each) are as likely to join the Canadian Navy as Brian Mulroney's nuclear-powered submarines. And as of mid-2013 (with Canadian Forces anticipating budget cuts and the Navy desperately in need of vessels that are not ice breakers), the prospect for such massively expensive vessels appears minimal. But a touch of reality appeared evident for the summer 2010 Arctic naval exercise, which included U.S. and Danish navies, without argument over the NWP sovereignty issue.

Nor is the issue likely to be affected by the "born again" position of former U.S. Ambassador Paul Cellucci, who suggested in 2007 that the United States should "take another look" at Canada's claims. In his account of his diplomatic tour in Canada (*Unquiet Diplomacy*), he mentions the Arctic as part of an area visit and muses briefly on "global warming," but has nothing to mention about the NWP.

In short, there is no benefit to the United States—and much potential disadvantage—to recognizing Canadian sovereignty over the Northwest Passage waters. It is a right that the United States has under international law and one that it will retain.

Concurrently, however, it would suggest a maturing bilateral relationship for Ottawa to cease arguing the unarguable with Washington. Instead, there is recognized utility in combined bilateral (and multilateral) efforts to map the surface and subsurface terrain of the NWP and its hydrology comprehensively. The area needs more in the way of navigational aids, regardless of who is using the passage. In that regard, a July-August 2010 surveying and navigational exercise was designed to update charts in 350 square miles in the Bering Strait. The effort resulted in new charts for the strait for elements of the Arctic in 2012 and 2013. These are not even spit-in-the-ocean advances as the National Oceanic and Atmospheric Administration has identified 38,000 square nautical miles as survey priorities. Additionally, the oft-suggested chain of underwater acoustic sites to chart submarine transits would certainly be useful. Satellite photography will surely be helpful, and sharing arrangements would benefit all concerned Arctic countries. Likewise, there should be protocols for search and rescue building on the May 2011 Arctic Council agreement—before a disaster results in circular finger-pointing over who-should-have-done-what-and-when. There can also be useful, globally beneficial registration procedures for ships planning to transit the NWP and laying out prospective shipping lanes both east to west and west to east. Whether these exercises require a formal body on the level of the International Joint Commission that has managed U.S.-Canadian boundary waters is another question; one suspects that still another bureaucratic structure would just complicate rather than resolve such questions. The March 2010 suggestion by Canadian Tom Axworthy, president and CEO of the Walter & Duncan Gordon Foundation, to create a permanent

secretariat for the Arctic Council is illustrative of such thinking. It is preternaturally Canadian to "solve" a problem by forming a committee.

Nor was it particularly useful for Canada to have demanded that all ships over 300 tons entering its (claimed) Arctic waters register with Canadian authorities as of July 2010. Indeed, such a requirement may simply have accentuated the obvious: Canada has no means of enforcing such an ukase against any vessel that cares to ignore it whether warship (including submerged submarines), passenger liner, sail boat, or merchant craft.

Could one hypothesize international funding for the Canadian Arctic base projected in the 2008 Canada First defense program rather than solely Canadian funds? One still can be skeptical whether Canada will ultimately provide go-it-alone funding for a facility that will doubtless be more expensive than now believed in an era of budget reductions. Such could be the equivalent of the Antarctic base with international sharing of expenses, while not questioning Canadian sovereignty over the base. One prime candidate is expanding facilities at Resolute Bay, which currently has limited but useful military and communication facilities. Conversely, the suggestion has been raised that exploiting existing although abandoned facilities in Churchill would be more efficient than building new infrastructure.

But nobody is rushing this fence; the costs are astronomical and the immediate needs are not.

4 IMMIGRANTS AND REFUGEES

The corollary to the question of border security is that of immigrants and refugees.

To restate the obvious: there is no question that Canadian attitudes and practices toward immigrants and refugees affect the United States—and vice versa. However, Canadian practices in these areas are already viewed as inadequately cognizant or appreciative of U.S. interests, and Canadian attitudes can easily be interpreted as hostile.

On the one hand, secure borders along with appropriate identification for those seeking to enter a country and remain within it legally are an essential element for deterring terrorists and criminals. On the other hand, these borders provide legal immigrants and legitimate refugees with assurance that their rights will be protected.

Nothing is more disheartening to those immigrants and refugees who are attempting to operate within the parameters of the system than to see individuals who have "jumped the queue" or "gamed the system," profiting from their illegality, official incompetence, or misplaced political correctness.

To be sure, Canada and the United States are nations of immigrants. With the exception of approximately 1.17 million Native Canadians (circa the 2006 census), the country is composed entirely of immigrants and their descendants. Somehow that rather mundane fact—that the majority of Canadians have come from some other part of the world and do not expect to return there to satisfy the desires of Native Canadians who would prefer all non-aboriginals to depart—has been extrapolated into a sense that Canada should be open to virtually any and all who seek to live there. That attitude, combined with a sense of guilt by fortunate Canadians, has left them with a system for immigrants and refugees that is open to exploitation. It is a system that so extensively empowers immigrants and refugees within the Canadian legal system as to make the process ludicrous to an outside observer.

Currently, there are more than 6.5 million immigrants living in Canada or almost 20 percent of a population of more than 34 million (according to a July 2011 CIA Handbook estimate)—the highest percentage in 75 years. A 2006 statistic by Human Resources and Skills Development Canada

noted both that 19.8 percent of the population was foreign born and nearly two million (6.3 percent of the population) had arrived during the previous decade. And a 2013 CIA World Factbook statistic listed Canada with the ratio of inflow to outflow that is the highest in the Western world. Canada had the world's highest per capita acceptance rate for immigrants—with more than 260,000 in 2011. And officially there are plaints that Canada needs even more immigrants—some arguing that Canada should accept a million per year, four times its current rate.

One must wonder about that judgment, which seems to have been accepted on its face without serious, critical examination. At the minimum, it continues reflexive "old think" so far as economics is concerned. Ostensibly, Canada's need for immigrants is designed on economic models that postulate declining prosperity unless the country builds an ever larger population. In this construct, prosperity is driven by population as more people contribute financially to the gross national product. Since Canadians have declined to produce the progeny that would expand the population at such a desired rate, the conclusion has been that one must secure larger numbers of immigrants to come, live, work, and procreate. These individuals will provide taxes and entrepreneurial economic activity to sustain the wide range of social services that Canadians have come to expect from both living longer and declining to have the children who might have support them in old age through tax-funded social services if not directly or personally.

Those who question that paradigm are depicted as "nativist," "racist," or just anti-immigrant, and implicitly in denial of the historical reality that they or their forbears were once immigrants. To be sure, even the most immigrant-friendly Canadian would admit one can have too much of a good thing, and a recent poll indicated that four of five Canadians either want immigration levels to remain the same or decline.

But Canadians might want to question the basic assumptions regarding immigration before plunging ever more deeply into implementing the conclusion that more immigrants are needed or even useful. Many of the economic models historically were based on the expectation that by age 65 an individual would be "worn out"—truly physically incapable of significant further economic effort based on a working life of 45 to 50 years of hard labor in construction, farming, mining, and industry. Work was hard, brutish, and long; the pure physical damage to bodies was not reparable as it might be now. These were jobs and working conditions in which few would wish to continue even if physically capable of doing so. Work was not "fun."

That is not the case as Canada moves more deeply into the twenty-first century. According to a January 2008 poll, more than 80 percent of Canadians do not wish to retire—a preference expressed well before realities of the Great Recession may have converted a preference into a priority. The desire to continue working was not purely financial, but social and psychological as well. Advancing technology, notably computers, permits unprecedented location flexibility for many twenty-first century workers and creative personnel management allows working arrangements far different from the traditional 40-hour workweek. This result suggests that today's work-a-day world is nowhere near as onerous as it was for parents and grandparents. Technology and modern manufacturing also have vastly reduced the physical burdens of work—and

commensurately reduced the need for the "hewers-of-wood and drawers-of-water" type immigrants that were virtually beasts of burden with an elementary-school education. Moreover, increases in productivity resulting from steadily improving technology will permit a static or very slowly growing and aging population to continue to live at a high economic standard.

Economists have argued for years that Canadian productivity lags behind what it should be achieving and certainly behind that of the United States. Although well below U.S. levels during most of the last decade, Canadian productivity sagged during the Great Recession, but significantly improved in 2012, relative to its competitors if not in absolute terms. Nevertheless, Canada has relied too long on its natural resource exports and a low-valued Canadian dollar to drive its economy and attract investment. The current and ongoing surge in the value of energy exports and the open-ended near term global need for Canadian energy have increased the value of the Canadian dollar frequently to parity with the U.S. dollar. This point is bewailed by Canada's tourist industry and lamented by manufacturers, but offers a unique opportunity to upgrade Canadian productivity by cheaper imports of the most advanced technology and training. It also attracts the very best immigrants with the anticipation of high salaries, and retains the "best and brightest" among Canadians. All too often Canadians have moved south not just for more money or winters that you don't have to shovel, but for the chance to work with cutting edge technology and "A-Team" personnel. Obtaining such improved technology will result in developing more R&D niches of excellence as well as higher productivity. Such a combination will mean reduced need for immigration and permit older Canadians to continue to work as they desire—part or full time—without reduced productivity on their part. That approach would suggest that a larger population isn't necessary to generate wealth (or pay more taxes). Wealth, both personal and societal, can come from greater productivity throughout a working lifetime as well as making that working lifetime longer. The motto should be "Smart Immigration" or "Not more, but better."

A Pro-natalist Policy

Another approach is renewed attention to a "pro-natalist" policy. If women are having fewer children, the government can adopt policies to encourage childbearing. The observation is simple, but not simplistic. Indeed, such a policy may well be necessary, not only in Canada, but in other Western states, since for the first time in history, pregnancy is a matter of choice—the woman's choice. This phenomenon should not be overlooked or underestimated. "That was the way it was," and religion, society, and limited scientific knowledge reinforced that reality, making it a virtue. To be sure, there have always been small elements of societies that have practiced birth control effectively. Only since the invention of "the pill," RU-486, and an ever-expanding spectrum of other sophisticated methods of contraception, including "abortion on demand" that is safe and effective, has childbearing passed from chance to choice (assuming normal fertility on the part of the couple). Society-wide familiarity with effective contraception combined with the rising age of marriage and significant divorce rates have meant a decline in the birthrate for Canadians.

Moreover, if childbearing is now by choice

rather than by chance, there are many factors that weigh against it. Even the most devoted parents (or single women contemplating having and raising a child alone) appreciate that children are endlessly demanding and expensive—indefinitely. Juxtaposing those who desperately desire children for historical or social reasons, there are those who say "thanks, but no thanks" to the opportunity. For a woman, pregnancy is uncomfortable, exhausting, and (very) occasionally fatal. And, equally honestly, not all children, either natural or adopted, are commensurately rewarding when balanced against the sacrifices associated with them. The costs in time, money, and opportunities foregone during child-bearing years are "sunk," while the rewards are psychic, societal, and often long-deferred. Or, again with brutal honesty, the rewards may never arrive—and the concerns associated with being a parent never end. On the other hand, the benefits of not having children are immediate and at least relatively long term, e.g., the chance to pursue a desired career for which preparation has taken many years of education and training, or to use the money from a career for material consumption and personal pleasure, or to maintain individual freedom unrestricted by parental responsibilities. The semi-humorous comment that "true independence comes when the last child moves out and the dog dies" applies only to parents—at least insofar as having the children reach the stage where they are "off the dole" in terms of requiring a parental subsidy and no longer living in the parental basement or spare bedroom.

Some years ago, an admittedly unscientific poll indicated that 70 percent of parents would not have had children "if they knew then what they know now." It was a stunning revelation at that time, but subsequent social and cultural developments have borne out the underlying preference not to have children. A serious basic question for a couple contemplating marriage is, "Do you want to have children?" And more than one man has broken off a relationship because the woman did not want children. Indeed, the reality has been that an increasing percentage of educated women defer or deny childbearing until the point where no more than one child (at most) is conceived.

Consequently, while it may not take "a village" or even a traditional family to raise a child successfully, it does require time, money, and commitment. Canadians should be having their own children—not attempting to globally outsource their population procurement requirements. Indeed, Canada may want to examine just how much generating each additional child from its current stock of citizens would "cost" in financial terms versus the expenses for creating a successful, socially contributing immigrant (including the impediments of also absorbing aging senior members of an immigrating family whose contribution to Canada will be minimal when compared with what they might extract from Canada's economy).

Presumably, those Canadians from whom the additional children could be encouraged or induced would not need layers of complex "reasonable accommodation" by society, and consequently some of the financial and societal costs associated with immigration would be eliminated. For example, it was not much longer than a generation ago that Quebec fecundity was demographically noteworthy, and Quebeckers intimated that a "revenge of the cradle" would generate greater political power. Also unnecessary would be language training (provided at home

by citizens with knowledge of at least one official language), and the various social and political instructions necessary for immigrant success in Canada would be the Canadian norm for children born to citizen parents. Essentially, every "locally produced" additional Canadian is one less immigrant necessary.

To be honest, pro-natalist policies have mixed results. Even in relatively controlled societies such as Singapore, it has been difficult to find acceptable mates for high-achieving women. The combination of financial incentives and social acclaim ("Hero Mother") has been discounted and smacks more of dictatorships than democracies. Nevertheless, they have not been attempted systematically within sophisticated modern society, although Germany is venturing into such a program. Canadians could effectively experiment with expanded tax credits; direct, increasing financial payments for every child; extended periods of maternal and paternal leave; full public child care or compensated home care; and other creative incentives, e.g., have more children and retire earlier than coworkers who are childless by choice; provide free university tuition for a third child. Under such a regime, Canadians might find the costs of "growing their own local produce" to be quite competitive with imported goods. Perhaps such policy could be viewed as a demographic twist to the "buy locally" green economic campaign.

The Role of the Immigrant

The foregoing is hardly to argue that Canadians should eliminate or even radically reduce immigration. When my spouse, in-laws, children, other relatives and associates were born outside the United States, it is impossible to be indifferent to the value of immigration. Nor can the strengths associated with a diverse multiracial, multiethnic, multicultural, multi/multi society that reflects global demographic differences be discounted. A monochrome society—whatever its color—can be both dull and insular. One musical instrument does not make much of an orchestra.

Likewise, however, it is hard to argue that the abiding racial challenges faced by the United States both currently and virtually from its inception are not the consequences of misguided, profoundly immoral immigration policy. We do not think of slaves as "immigrants," but forced immigrants they were. Slavery virtually destroyed the United States; there were more casualties in the Civil War than in any other U.S. war, and it reverberated for almost a century throughout the U.S. sociopolitical spectrum—probably until the last Civil War veteran died. Its twenty-first century consequences are reflected in multiple societal shortcomings (economic, educational, and medical) among African American citizens. And the current presence of more than 11 million illegal and primarily Hispanic immigrants is our next socioeconomic challenge, with potentially equally divisive and potentially disastrous political, educational, linguistic, and racial undertones. Elements of this problem are being played out increasingly loudly and angrily along our southern border, epitomized by Arizona's plight in early 2010 with 500,000 illegal immigrants in a population of six million as the proximate case. The issue, verging on crisis, has prompted vigorous efforts throughout many U.S. southern border states to create legal and physical mechanisms to counter massive illegal immigration. The politics are being fought in the courts juxtaposed against a grinding

federal effort to create legislation that will both effectively control the border and create a path to "legality" for the illegal millions. This unpleasant circumstance is one in which the "beaver" could profitably learn from the "eagle." The baseline lesson for Canada being that a state that does not control its borders has lost its sovereignty.

Canada has made a virtue out of a necessity. With "two founding nations," no dominant culture, and an unwillingness to force assimilation on French speakers in fortress Quebec, Canada can never realistically seek to be a "melting pot." Thus the struggle to make the cult of "mutlicult" work is akin to having all of the instruments in an orchestra at least familiar with the musical score being played. When there are willing musicians and a strong conductor, the results are globally instructive; when the country doesn't enjoy this happy combination, the cacophony is equally instructive.

Attitudes toward immigration are in constant flux; essentially they are driven by economic imperatives. It is obvious: when times are good and the economic pie expanding, immigrants are welcome or at least tolerated. When times are not, any immigrant with a job is deemed to have obtained it at the expense of a citizen. Even the most technically skilled immigrants are viewed skeptically. And if an immigrant is jobless, the popular view is that supporting him at public expense is a waste of money.

On a general level, a variety of polls in earlier years indicated Canadians were more welcoming to and willing to accept immigrants than most countries. Although an observer can cherry pick polls, a 2004 poll recounted that while 56 percent of U.S. respondents wanted immigration decreased, only 32 percent of Canadians adopted that position. On the other hand, a June 2007 poll suggested that 58 percent of Canadians agreed that it was a higher priority to encourage minority groups to try to change to be more like most Canadians (versus 38 percent who believed it was incumbent on Canadians to accept minority groups and their customs and language). And most recently, the annual Citizenship and Immigration tracking survey of 2012 indicated that only 40 percent thought immigration had a positive effect on Canadian culture—down 16 to 18 percent from the 2010 poll. As the polls do not identify or differentiate between immigrants and nonimmigrants among the respondents, this may be a flaw in the methodology.

Polling has persistently indicated that when informed of the number of immigrants, respondents change significantly from "the right amount" to "too many." In 2008 comments, Jack Jedwab, now director of the Montreal-based Association for Canadian Studies, suggested that the response to the question regarding whether there was a consensus on immigration levels in Canada "depends upon the percentage that is used to define consensus." Separately, he noted that the desire to restrict immigration rises when the exact number of immigrants settling in Canada is made known to the respondent. And in a 2013 poll, 70 percent supported limits on immigration, and 49 percent believed Canada should only accept immigrants from countries "which share Canadian values."

Canada also has the particularized problem of addressing immigration to Quebec separately from the Rest of Canada. Without belaboring the point, Québécois are protective of the primacy of the French language and

their distinctive francophone culture. They are permitted to pick immigrants coming to Canada on a provincial basis and seek in particular those with French language capability. On the other hand, throughout 2009 there was a major debate, starting in the province but redounding across the country, over the elements of and limits to "reasonable accommodation" for immigrants in Quebec. Although a subsequent panel with distinguished participants (including the brother of former separatist leader Lucien Bouchard) even-handedly reviewed the issues, the results really satisfied none and bruised both immigrants and *pure laine Québécois*. Newer arguments of recent years appeared to call for a slight reduction in immigration to Quebec with a "breathing spell" to manage present numbers; however, Quebec planned to accept record numbers of immigrants (51,200 to 53,800) in 2012 with comparable numbers projected for 2013-14, despite almost 40 percent being unable to speak French.

What is desired by all advanced societies are "boutique immigrants"—those who form the upper 10 percent of any society with their advanced technical skills in science, engineering, medicine, business, finance, and comparable disciplines. These are regarded as largely portable skills—"iron rice bowls" that can be taken anywhere and practiced profitably for self and society. When Canada is fortunate, circumstances (personal, political, economic) prompt such exceptionally qualified individuals to seek fresh opportunities outside their native country and in Canada. When Canada is unfortunate, it attracts the less qualified immigrants and provides fewer opportunities to them than their skills would permit. It opens the doorway to such immigrants to "reunify" unqualified or elderly family members who exploit the national social safety net, and creates circumstances where its own most qualified professionals depart for other lands. When Canada is particularly unfortunate, it creates circumstances in which individuals enter the country illegally or on spurious rationales, "burrow in," and deliberately create personal circumstances over time that make it highly difficult, if not impossible in practical terms, to return them to their countries of origin.

When unemployment figures were near historic lows (as of late 2007-early 2008), the question of illegal immigrants taking the jobs from qualified Canadians was less pointed than in the United States, although this fortuitous circumstance did not survive the economic downturn that drove U.S. unemployment higher than that in Canada. Although Canadian unemployment was several points below that of the United States, the Great Recession still left masses of autoworkers in Ontario jobless and even blunted the Alberta oil and gas boom. Nevertheless, the "jobs question" ultimately remains primarily one of salary and wages. It is not that Canadians will not do the jobs in agriculture, construction, domestic service, food services, etc., and thereby require immigrants to do the jobs. The point is that Canadians do not want these jobs *at the pay they are offered*. An alternative question might well be whether these jobs really need to be done?

Immigration System in Flux after Massive "Reset"

And what is Canada doing?

To be sure, Canada does not have the crisis of massive illegal Hispanic immigration that has beset the United States. But the numbers

of nonimmigrant visitors to Canada are very large, and the controls on them are feeble to nonexistent. Reportedly more than 35 million people visit Canada annually—more than the country's total population. For example, almost a million visitor and tourist visas were issued in 2012—and more than 50 countries including the United States (but no longer Mexico as of July 2009) were exempt from obtaining visas. For these tourist visa visitors, as well as the huge numbers of exempted visitors, health and security checks are not mandatory, and they are not monitored following entry into Canada.

Needless to say, some simply do not return home, and work and live on the margins of the "gray market." And, to be sure, others move illegally to the United States where submerging in a larger (climatically warmer) society is easier.

Over much of the past decade, Canada admitted between 221,000 and 262,000 immigrants per year (247,202 in 2008 but more than 280,000 in 2010—the highest figure in more than 50 years—and at least another 260,000 in 2011). The objective is to admit 250,000 per year, a figure that has been rather slippery on an annual basis. Additionally, there were more than 213,000 temporary foreign workers admitted in 2012—total temporary workers in Canada rising to 330,000 by mid-2013 (NAFTA, Chile, and certain professions were exempt from requiring a positive Labor Market Opinion before entry).

Following a scandal wherein Royal Bank was importing Indian workers to replace Canadians (who were directed to train their replacements), as of mid-2013 employers were required to check locally for workers; the restriction is regarded as trivial by Canadian unions. Again, health and security checks are not mandatory and there is no post-entry monitoring as employers are not required to report on these workers. Finally, in 2012, more than 100,000 student visas were issued. Although admission is conditional on acceptance at a recognized educational institution, health and security checks (other than having 29 third world countries provide biometric information) are not mandatory, and students are not monitored subsequent to entering Canada.

The 2008 "Canada Experience Class" program is designed to admit those with Canadian university education and temporary workers with high skills without requiring them to return to their native countries to apply. Canada was slow out of the starting blocks, issuing only 2,500 visas in 2009, but subsequently has been regarded as highly successful with 20,000 total issuances by early 2013 and a goal of issuing 10,000 visas during the year. This approach is at best a partial answer as it will exclude the ever rising masses of temporary workers who arrive without educational qualifications or clear capability in one of Canada's official languages (reportedly more than 26 percent of new immigrants do not know either official language).

The potential problems with these disparate categories are obvious. Many of the "temporary" workers and students find Canada congenial, and chafe at the requirement to return to their native countries to apply for landed immigrant status. The temptation to "fiddle" the system and manipulate the rules for returning is perfectly human, albeit self-interested; however, the damage to the system itself by delaying or denying entry to other qualified prospective immigrants—reportedly numbered 850,000 to one million who were in the queue before the government draconically shortened the list by fiat in June 2012.

Immigration 2013: Latest and Greatest

Canada's immigration system is constantly in evolution with considerable debate raging over whether the system should maximize access for the intellectually "best and brightest," those with solid blue-collar craft skills (plumbers, carpenters), those having personal ties in Canada for "family reunification," or other criteria. Thus there are various point systems devised to weigh education, language skill, health, age, financial status, etc., to attempt to bring to Canada individuals who can hit the ice skating (so to speak) and quickly become prosperous at the level of indigenous citizens.

In early 2012, Ottawa moved to create a "just in time" economic-focused immigration system. It eliminated from the queue all those who had registered prior to February 2008, creating a new paradigm requiring applicants to express "interest" and then be evaluated extensively prior to being offered a visa. Ostensibly, this approach will more carefully match the skills of applicants with the economic opportunities available in Canada. One positive factor appears to be plans to evaluate the professional credentials of those claiming professional expertise (doctors, engineers, etc.) under controlled conditions outside Canada. Another element is that the "pool" of those "interested" will be regularly flushed out, an approach designed to prevent recurrence of the previous backlog.

As one can imagine, the screams from those who had lost their place in line and faced starting over were deafening (and heart-rending). There was an immediate class action suit seeking to reverse the decision, with predictable claims that the action was racist since more than 80 percent of those eliminated were from Asia, the Middle East, and Africa. One might imagine the thoughts of those who had played by the rules and not attempted to end-run the regulations by "overstaying" a tourist visa. The courts ruled that the government had the right to manage the immigration system. The government remains somewhat defensive, noting that it intends to maintain about one-third of its immigration intake for family reunification and refugees.

Nevertheless, the traditional immigration was unsatisfying and no longer working. It remains problematic whether the reset will provide a satisfactory result or just generate new nuances of frustration. Canadian immigrants historically reached an economic level comparable with native-born citizens in relatively short periods (immigrants arriving in the 1970s took 10 years to reach or exceed income levels of people born in Canada). Such no longer appears to be the case. The judgment in 2008 was that by the end of the 1990s, those in Canada for 10 years were still earning less than 80 percent of native-born Canadians. Another study in 2011 indicated that while immigrants paid more than $10,000 in taxes, all Canadians paid more than $16,000 with a net cost per immigrant of more than $6,000, and a total societal cost of between $16.3 and $23.6 billion.

The reasons for this lag are as much debated as are the parameters for immigration, and the effects of the Great Recession are likely to accentuate the economic problems of immigrants. One popular explanation has been the argument that highly skilled immigrants such as medical personnel, engineers, and the like, are forced into low paid position such as driving taxi cabs or

washing dishes because they are unable to obtain professional certification under stringent Canadian regulations. The intimation is that various "closed shop" professions deliberately erect unnecessary requirements to prevent new "outsider" entrants (or at least considerably slow their entry) and thus limit competition.

Presumably such can be the case in specific instances; one can always find idiosyncratic sad sack cases eager to advance their particulars to the media or to the public. Abstractly, however, one must wonder just how qualified these theoretically qualified professionals really are. The quality of medical training outside Europe and North America can be seriously questioned. If applicants cannot pass the Canadian certification tests, should Canada dumb down its standards? And just what would be the public outcry should a "doctor" with marginal skills fatally mismanage a patient's medical problems? One recalls the pair of immigrant radiologists in Saskatchewan and New Brunswick whose work was judged to be grossly incompetent in 2009, and upwards of 100,000 patient imagery exams required further review after various egregious errors came to light. Such radiology problems have occurred elsewhere. They are hardly the only problems, merely the most blatant examples of immigrant ineptitude.

To be sure, the professional certification examinations are challenging. But more than 30 years ago, a senior Belgian academic medical researcher sought to enter the United States on a program that included work on monkeys. The United States required that he pass U.S. medical board exams to assume the fellowship. And, indeed, the Belgian was puzzled. Pass the medical exam just to work on *monkeys*? But with a shrug, he restudied material, admittedly not reviewed in 20 years, and passed with high scores. The exams are not that hard, but at least one of the two radiologists cited above was not board certified.

And an observer might note that the combination of the Great Recession and horror stories such as the Saskatchewan and New Brunswick radiologists blunted the intensity of fulminations by media and immigrant advocates to grant quick validation for the credentials of foreign-born technical experts.

In the longer term, it might be more cost effective to expand Canadian medical schools steadily, consider reducing the extent of the undergraduate curriculum necessary to enter medical school, significantly increase compensation for Canadian doctors (all too many of whom depart for the United States), and offer serious financial incentives for those Canadian doctors resident in the United States to return. If slots are lacking in Canadian medical facilities, the government might consider funding talented students in U.S. medical schools. Ultimately, however, there is also a moralistic question whether Canada should raid the rest of the world of its medical talent; again, investment in Canadian medical schools and training would alleviate such questions. There is, moreover, no need for the prospective terrors of two-tier medicine to be part of this debate.

Immigration Fraud

Getting to Canada is akin to winning a global lottery; if normal immigrants work as hard in Canada as they worked in their homeland just to stay alive, they will live in what would have been luxury for the country of origin. And live in personal safety with no likelihood of political or religious persecution; sons will not

be conscripted into military service; daughters not raped by marauding gangs; homes not invaded or looted, and property unaffected by roving arsonists. Canadians should appreciate how rare is this circumstance and how much of a benefit Canadian citizenship bestows on the immigrant. Bluntly, the benefit to the individual immigrant is greater than the benefit to Canada—and Canadians should not hesitate to make this reality clear to any immigrant.

Although how Canadians determine who qualifies for a visa is ultimately a Canadian concern, historically Canadian consular officers have been astonishingly naïve. A U.S. consular officer in Brussels recalled a generation ago rejecting a number of Haitians requesting visas. The requests were obvious frauds: *inter alia*, the sewing of the "passports" was done by hand, and the likelihood of the applicants returning to Haiti once they were in the United States was non-existent. Having been turned down, the Haitians were overheard by the U.S. consular officer saying that they would now try the Canadian embassy. Alerting the Canadian consular officer that some obvious Haitian frauds were headed in his direction, the response was a disdainful, "We don't get frauds."

In this continuing regard, the case of fraudulent x-rays for Chinese immigrants, stemming from 2003 incidents but not publicly reported until 2008, is illustrative. Although there is an element of "he said; she said" in the case, it appears indicative. A Chinese professional claimed his healthy x-rays were used for the application of an individual suffering from tuberculosis; his claim was verified by other Chinese officials. Immigration Canada officials denied the charge, noted privacy rights constraints, and insisted that an investigation had discovered no illegal action. Case resolved? Well probably not, as Chinese immigrant fraud for U.S. visas has been historically high, with document manipulation, faked x-rays, false blood typing, and other creative illegality. So intelligent and innovative were some cases that one might almost believe they should be given visas for sheer brilliance; however, it was still illegal—and one must assume that Canadian visa officials have been comparably duped. If, for example, you do not personally control the x-ray screening, the financial incentives for supplying false documents can be overwhelming. And never forget that societal constraints against lying to "outsiders" are virtually nonexistent in most foreign societies.

The Illegals

The number of illegal immigrants in Canada is illusive; after all, that is the definition of illegal activity and individual perpetrators—they do not stand around politely to be counted, and illegal residents are not anxious to be identified and enumerated in any national census. In late 2007, Professor Peter Showler, director of the Refugee Forum at the University of Ottawa, estimated that the number of illegal immigrants in Canada ranged between 35,000 and 120,000. James Bissett, a former head of the Canadian Immigration Service, has suggested that the lack of any credible refugee screening process, combined with a high likelihood of ignoring any deportation orders, has resulted in tens of thousands of outstanding warrants for the arrest of rejected refugee claimants, with little attempt at enforcement. Other estimates of illegals are far higher with a 2003 estimate projecting between 200,000 and 500,000 illegals in Canada.

Canada does not face the circumstances of the U.S. Southwest, where it sometimes appeared as if a significant percentage of the populations of Central America, South America, and Mexico were sprinting north, pursued by breathless, out-of-shape customs agents, or the situation when "catch and release" was the policy of the day. There have been no stories of U.S. citizens moving north to take advantage of "free" Canadian health care and longue in Canada's social safety hammock. There have, however, been blatant illustrations of illegals crashing the gates of Canada. Among the most dramatic were the series of Chinese smuggling operations into Vancouver revealed in 1999-2000, in which representative cases totaling 600 Chinese arrived illegally—and immediately claimed refugee status. The normal Canadian approach was to accept their claims and release them with a court date—which to no surprise, they never kept. Presumably, Canadians were not particularly bothered by these predictable nonappearances as vested wisdom had them headed for the United States, notably New York City, and thus they would be a U.S. and not a Canadian problem.

Chinese authorities were not amused by this northern version of "catch and release," and demanded immediate repatriation of their citizens. A Chinese Foreign Ministry spokesman was quoted as saying, "To achieve their aim of staying for a long time overseas, some illegal immigrants create excuses and even tell lies in applying for so-called political asylum or refugee status." You can almost hear him harrumphing and sputtering (actually "tell lies")! A Canadian Embassy spokesperson in Beijing ritualistically repeated the legal requirement to allow anyone entering Canadian territorial waters to present a claim for refugee status—a loophole that the Chinese insisted was encouraging illegal immigration. Which, of course, it does—much to the frustration of some Canadian immigration officials. And, even more unfortunately, many of those identified and then subsequently released into Canada (never to be seen again) were boys and young women who were likely designated for the sex worker trade.

The Problem, of Course, Continues

There has been a steady stream of trafficking cases particularly from East Asia, over several years totaling hundreds of young women, primarily from Korea—because they could enter Canada without a visa—into the United States. The occasional arrests seem to have had limited juridical results. The circumstances illustrate the continuing superhighway of sexual subjugation running from visa-free entry countries such as Korea into Canada, and from there to border-running operations directing prospective sex workers into large U.S. east and west coast cities. Canada may now be less of a transit highway for Koreans since, as of January 2009, Koreans could enter the United States without a visa.

In another example, in October 2009, 76 men arrived in Vancouver as passengers aboard the *Ocean Lady*. Subsequently, a third of them were believed to be Tamil Tiger combatants and intelligence personnel escaping from Sri Lanka after their decades-long death struggle with the Sri Lankan government. All immediately claimed refugee status and, after being held for several months, were released. Would these individuals become productive Canadian citizens? Or would they burrow into the Tamil-Canadian community and organizing another effort to revive their

insurgency? Perhaps the only positive aspect of this case is that they are more likely to stay in the Tamil-friendly Canadian structure than try to enter the United States illegally. This group was followed by almost 500 Tamils who landed from the *MV Sun Sea* in August 2010. The group was immediately detained and comprehensively investigated for possible Tamil Tigers; six months later, more than 100 were still in custody, but by May 2012, the majority had been released with claims being processed. With "mills of the gods grind slowly" alacrity, specific deportation cases were grinding through the courts. In early 2013, the lawyers for one individual scheduled for deportation lamented that new laws prevented appeals for a year after the decision. As of mid-2011, the costs for dealing with the *Sun Sea* were estimated at $25 million—all a consequence of permitting any rust bucket afloat that reaches Canadian waters to land and disgorge its human cargo into the Canadian juridical "refugee" process.

Subsequently, Canada has worked to prevent such vessels from reaching Canada, e.g., with funds to Thailand in 2012 to combat human smuggling and new legislation (Bill C-4) in 2012 to battle human smuggling, by, *inter alia*, detaining individuals in mass arrivals for up to a year and prohibiting application for permanent residency or family reunification for five years. Bill C-4 provisions essentially have been folded into Bill C-31 (passed in June 2012) which reduces time limits for refugee application and appeals if refugee status is denied and Canadian authorities are also demanding proof that any immigrant "refugee" has paid off the cost of being transported to Canada.

Naturally, such legislation is resisted by the spectrum of human rights groups claiming that the individuals are poor, benighted people fleeing persecution and that the new requirements are "draconian" and ineffective. While making an obligatory bow to the possibility that terrorists or criminals may be included in such human cargoes, essentially they regard the rules as a "manufactured excuse for unreasonably harsh treatment." They promise legal challenge to legislation they deem unconstitutional and violating the UN Refugee Convention. From an American optic, it is a barely sufficient semi-deterrent to a mechanism to game the Canadian immigration system.

For its part, the government has engaged in a pissing match with the courts. In February 2011, then Immigration Minister Jason Kenney commented that the federal courts were not supporting government immigration policies designed to remove immigrants with alleged criminal pasts and other unwanted refugees. Condemned at the time by various legal groups trumpeting the sanctity of the court system, in August 2011 the Supreme Court chief justice also applauded those opposing the government. Canadian courts remain self-righteously independent; one can predict they will be hostile to the revised 2012 immigration laws as appeals of individual cases wend their way through the courts.

And while bad cases are not determinative, they can be indicative:

In a mundane but poignant case, a South Asian-Canadian woman married an Indian in September 2009. She arranged for his visa to Canada; he came to Canada in April 2010—and then avoided contact with her. She filed complaints with the police and immigration authorities and, reportedly, his family simultaneously threatened her and offered substantial sums of money to drop the

actions. Reportedly, the "husband" has been dismissive of any prospective immigration action against him and has lawyered up to avoid prosecution. Then Immigration Minister Kenney was cited admitting, in effect, that there were thousands of such sham marriages annually—but it is all but impossible to prove that fraud had occurred. Obviously, this device is another mechanism to game the system. Canada badly needs an equivalent to the U.S. regulatory procedures wherein sponsored spouses entering the country do not obtain legal status until they have lived with their spouse for a significant period of time. Otherwise, the prospect for credulous young women being duped as a consequence of their stupidity is open-ended—with pitiful societal consequences.

Walford Uriah Steer

A career criminal with a record dating to 1993 (months after immigrating to Canada), Steer was expelled in 1999 after many assault, theft, and fraud convictions. He returned in 2000, applied for refugee status, and was granted it in 2003 on the basis of his claim that he would be killed if returned to Jamaica. More crime ensued (76 arrests by 2006), and again he was ordered deported. Set free while awaiting deportation, Steer disappeared. Arrested in 2010, he was ordered deported but again disappeared, only resurfacing when arrested in September 2011 while "allegedly" pimping a 16-year-old girl. Having beaten the pimping charge, he was being held for deportation (again) in early 2013.

Illegal Immigrants and the Canadian Court System

Despite a generally receptive nature to immigration and immigrants, Canadians are highly negative toward illegal immigration. According to a January 2008 presentation by Jack Jedwab, Canadians support deportation of illegal immigrants without differentiating between "undocumented workers" and "workers without the proper work permits." Two-thirds say deportation should be the consequence of not following the rules. Over half took this position regardless of the existence of family ties, if the individual did not go through the proper application process. Half said the same regarding students, even those with the potential to contribute to Canada, but whose visas had expired and were present illegally in Canada.

As noted earlier, polls can be "cherry picked" and respond to transient developments. Nevertheless, a July 2011 poll found that 73 percent of respondents wanted those guilty of passport fraud immediately deported. The same poll showed 79 percent wanting new immigrants to have to work and contribute to the economy before getting full social benefits. And the previously positive attitude toward immigration also is imploding; an August 2011 poll said that only 39 percent viewed immigration positively, while 35 percent believed it to be negative. These points were reinforced by an early 2012 Nanos Research poll in which four of five Canadians wanted immigration kept at current levels or reduced. And, as noted above, a 2013 poll suggested that 70 percent want immigration caps.

But how is that Canadian consensus actually implemented? The Canadian immigration system is examined above. An entirely separate element is the refugee processing and adjudication system, which will be addressed below. The revised system (as of mid-2013) to manage illegal immigrants has been designed ostensibly to accelerate the

decision-examination process. Nevertheless, a review of the previous system in the following account remains instructive.

The Immigration and Refugee Board (IRB) has been described as an independent administrative tribunal reporting to Parliament through the minister of Citizenship and Immigration (a cabinet position that does not exist in the United States). The IRB "is instrumental in making important decisions for those who wish to become permanent residents."

The IRB has a Refugee Protection Division (RPD) and an Immigration Protection Division (ID). The latter conducts admissibility hearings (removals) and detention reviews. An Immigration Appeal Division (IAD) manages appeals for failed family sponsorships, reviews the residency obligations of permanent residents, and handles removal orders (deportations).

The formal approach would have an individual deemed inadmissible at a port of entry or immigration office in Canada referred to an IRB-ID for an admissibility hearing. If judged inadmissible, the IRB-ID issues a removal order. Such, however, is hardly definitive; indeed, it is just the entrance to the labyrinth. Few of those designated for removal are actually detained. And at that point, individuals seeking to stay begin the appeal process. This process can be protracted by a removal order being "stayed"—with periodic further review and reconsideration of the removal decision. A negative judgment, reaffirming the removal decision, can be appealed to federal courts.

The revised Canadian system appears to add some additional wrinkles to the appeal process in the Immigration Appeal Division. No appeal is possible for an individual guilty of "serious criminality" punished by a two-year-or-more sentence nor for "organized criminality." Moreover, a removal order cannot be appealed if a claimant has had a refugee protection claim rejected. Nevertheless, various levels of appeal, stay of decisions, and options for appeal to Federal Court of Canada are open to the legal creativity of those preferring to stay in Canada than return to homelands.

Engaging in the extended appeal process is highly advantageous to the illegal immigrant. The 1985 Supreme Court Harbhajan Singh decision is the essence of Canada's problem. In its decision, the Court rejected the government contention that Singh (and other plaintiffs) had no status within Canada and thus no Charter-protected rights. The decision is interpreted as requiring every refugee claimant or illegal immigrant the right to a full oral hearing under the Charter. Consequently, from the moment of arrival within Canadian territorial waters (no equivalent to the U.S. requirement to reach land—the "wet foot, dry foot" rule), claimants are eligible for social services, legal aid, subsidized housing, medical care, and education through secondary level—until their claim is resolved through the entire appeal process. Reportedly, in 2011 approximately 25,000 refugees made claims, and in mid-2011 there were upwards of 50,000 to 60,000 claims waiting to be heard. Most claims are eventually found invalid, but Canadian jurisprudence grinds away for years, publicizing "sob story" cases to elicit sympathy.

For example, there is the 2008 case of a family with a four-year-old Down syndrome child born in Canada facing deportation to its native Uruguay after seven years of court struggle. The original ruling permitted the Canadian-born child to stay—but the rest of

the family could not (and the lawyers claimed that the child would not secure Canadian-comparable care in Uruguay). Unasked were presumably impolite questions such as why the family elected to have another child (other than to attempt to bolster their claim to stay in Canada). Nor were the relative status of medical care, freedom, and human rights in Uruguay investigated. These circumstances may not be at Canadian Charter levels but still significantly above world standards. Nevertheless, the "humanitarian" elements of the case prompted re-examination. More honestly it was generating negative publicity for the government, and in July 2008, the family was permitted to stay with statements to the effect that "Canada will benefit from keeping these excellent and hard-working community members" (the parents) but with no estimate of the costs for the lifetime health care and social service for the child.

Then there was the 2008 case of Laetitia Angba in Quebec whose father brought her to Canada from Cote d'Ivoire in 1996; claiming to be a widower, he subsequently married a Canadian. It having been discovered that he had a wife in Cote d'Ivoire, he was subject to deportation, which he had been resisting since 2005. Obviously, Angba, by then 18 years-old, did not wish to leave Canada and appealed a deportation order in federal court. Questions concerning why her father never brought his wife to Canada—but took the daughter with him upon departing—went unasked and unanswered. Likewise, she presumably never informed Canadian authorities (and perhaps not the Canadian wife) that her mother was alive in Cote d'Ivoire. Ultimately, the prospective vision of dragging a screaming woman onto a plane for deportation was sufficiently appalling that in February 2008, she was given a three-year-stay of the deportation order, and who would bet a plugged loonie that she will ever leave Canada involuntarily? Internet references in 2011-12 suggested continued Canadian residency. As such she can be the wedge to bring the rest of her family to Canada—but to whose benefit?

Another illustrative case was that of Laibar Singh (no relation to the earlier mentioned Singh), a middle-aged man (age 49 in 2009 when his case was resolved), who entered Canada illegally in 2003 using a forged passport. He was apprehended and scheduled for deportation; however, he then suffered a medical condition that left him partially paralyzed—some claimed that it was the consequence of untreated tuberculosis for which he was never tested in Canada. Subsequently, he sought to stay in Canada on humanitarian and compassionate grounds. This claim was denied as Singh had four children in India and his condition was not uniquely treatable in Canada, considering there are qualified doctors available in India. An unfortunate but straightforward issue one would think. Various supporters of Singh contrived to provide him "sanctuary" in a British Columbia Sikh temple in July 2007. Repeated efforts by Canada Border Services Agency (CBSA) officials to deport him were thwarted by mobs of supporters, preventing deportation. The obvious fear of confrontation demonstrated by the CBSA agents prevented them from taking legal albeit forcible action, and illustrated the exceptional weakness of the deportation system. One advisor to the CBSA commented that "since I'm an old leftie," he would probably let Singh stay, but even he appreciated that the government could not allow action subsequent to the original claim to reverse the decision. And, were Singh ultimately successful, it would

open an entirely new category of potential claimant—those who are disabled to claim the right to stay based on their disability. Ultimately, Singh departed voluntarily in late 2008 and in a subsequent July 2009 television interview from India (where he was receiving appropriate medical care), he admitted that he had not feared for his life when leaving India, but "I was poor…That's why I came to Canada." Truth outed; he effectively gamed the Canadian immigration system by successfully transforming his illegal immigration into a "refugee" case.

While high profile cases do not necessarily indicate the day-to-day circumstances, the inability of the CBSA to address straight-forward deportations prompted questions south of the border regarding the general competence and efficiency of the Canadian system.

Refugees

Even more frustrating for any observer seeking logic and coherence has been the Canadian refugee system. Based on sweeping (and certainly internationally unique) legislation, this process permitted any person in Canada or at a port of entry, with or without status, to make a claim for refugee status. All claims had to be considered regardless of the citizenship of the claimant; thus UK, French, German, and other EU citizens as well as U.S. citizens had to be processed.

Again, in theory, the legal system prior to its December 2012 revision (discussed below) regarding refugees was straightforward, albeit complex.

Upon making a claim, an individual's entry to Canada was permitted immediately. Claimants were required to report their location within 10 days and have a medical examination within six weeks. After making a claim, the prospective refugee was required to submit within 28 days a detailed personal information form (PIF) including a narrative of circumstances—although the 28-day timeline was often ignored. If the refugee claimant simply disappeared and went underground, a warrant for detention and removal could be issued. To demonstrate the feeble nature of any pursuit, in mid-2008 there were estimates of 63,000 outstanding orders for deportation—and 41,000 scheduled deportees had completely disappeared. Another estimate offered in August 2011 noted that 38,000 people were wanted by CBSA, of whom approximately 1,400 were convicted criminals. And one might recall that a deportation order was pending for "Millennium Bomber" Ahmed Ressam when he was apprehended attempting to enter the United States with a car trunk load of explosives designated for Los Angeles International Airport.

For those who elected to pursue their claim through official channels, there could be a full hearing before the Refugee Protection Division (RPD) board or an individual member. A "fast track" expedited process could also review the claim and accept, reject, or send it to a full hearing. Rejections could be appealed. And they can also enter the federal court system.

Ostensibly, the Immigration Refugee Board scheduled hearings on refugee claims and immigrant appeals claims within 18 months. As of mid-2010, reportedly there was a backlog of 60,000 claims—including those from European countries and the United States. During the period awaiting their hearings, individuals usually are free within Canada, unmonitored, and eligible for the full panoply of Canadian social services.

Every removal decision could be appealed, first within the refugee system and then in the federal courts. The results were a convoluted, astonishingly protracted process that provides textbook illustrations for law students and convinces outside observers that the process has perverted justice.

Some Background

According to a 2006 Fraser Institute study, Canada had the world's highest level of refugee acceptance at 49.6 percent; it slipped a bit to 38 percent in 2010-11 (in comparison, Finland reportedly accepted 0.7 percent in the 2006 study).

A combination of broad interpretation of the Charter of Rights and Freedoms and the manner of functioning of the Refugee Protection Division boards and members has driven this exceptional level of successful claimants.

Unfortunately, these boards were frequently dumping grounds for political party favorites not selected for higher level positions. For years qualifications were minimal; efforts to upgrade them have left incumbents whose primary qualifications are political. Moreover, board members must prepare written reasons for their decisions—but only for negative decisions regarding refugee claims; a process that reportedly takes hours and requires legal services and assistance to draft. Thus there is an obvious incentive for the non-lawyer board member (or any lawyer with a private practice more lucrative than the modestly compensated IRB) to render oral positive decisions, particularly as board members reportedly are evaluated on the number of completed hearings, regardless of whether they are positive or negative.

Contortions

The reality of Canadian justice regarding refugee claims, including those with security elements, could conceivably have been smooth, efficient, and expeditious. Unfortunately, the highest profile cases lent the opposite impression: that they were tediously protracted, interminably convoluted, and reflect systematic effort to escape justice by serious offenders abetted by a justice system that has lost track of its responsibility to protect society from criminals.

There are several illustrative cases.

- **Leon Mugesera** is a Rwanda Hutu with failed refugee claimants dating from 1995. In 2005 the Canadian Supreme Court declared him a war criminal and ordered him deported for helping to incite the genocide that devastated that country through a speech he delivered in 1992. Nevertheless, he remained in Canada until deported in late January 2012—16 years after his failed refugee claim—legally manipulating an assessment regarding whether he risked persecution, torture, or death in Rwanda. In July 2007, the Rwandan government dropped the death penalty for convicted war criminals; however, Mugesera's lawyers continued to argue that he would face other forms of persecution if returned to Rwanda. His arrival in Rwanda was uneventful; he was charged with genocide and, after repeated delays, in a trial ongoing in April 2013, denied all charges. Justice delayed is justice denied—for Mugesera as well as Rwandans.
- **Rachidi Ekanza Ezokola** was a UN diplomat from the Democratic Republic of Congo who felt threatened following a change of government. In January 2008,

he decamped to Montreal with his wife and eight children and applied for refugee status. The IRB denied the claim, contending that he was guilty by association with war crimes committed by previous Congo leadership being a senior official in the government. In 2010 a federal court rejected the IRB's ruling and ordered reconsideration; however, a year later a unanimous panel of three judges at federal level overturned the decision. Never daunted, Ezokola's lawyers orchestrated a Supreme Court review, which in July 2013 permitted Ezokola's appeal to the IRB. His wife and eight children already having obtained refugee status in 2010, one assumes Ezokola is likely to succeed in his next review. Left dangling is how much complicity by association with war criminals is disqualifying—and whether any of those at Nuremberg could have won refugee status in 2013 Canada.

- **Mahmoud Mohammad Issa Mohammad** is a Lebanese national convicted in a Greek court for an attack on an El Al airliner in 1968 that killed a passenger. Released in an inmate-for-hostages swap in 1970 by a Palestinian terrorist group, he continued to work with them for several years, but entered Canada in 1987 as a landed immigrant by using a false identity. In 1988 the fraud and Mohammad's background were revealed, and he was ordered to be deported; however, he claimed refugee status. In 2001 the Refugee Board Appeal Division concluded he was a "terrorist" under the Immigration Act and upheld the deportation. Subsequently, he evaded deportation; *inter alia* he claimed that deportation would be "cruel and unusual" punishment since health services in Lebanon are not as good as in Canada. He continued to reside with family in Brantford, Ontario, with one estimate suggesting his 25-year-duration court case had cost Canadians $3 million. In May 2013, however, he was departed to Lebanon with much wailing and gnashing of legal teeth by his lawyers, children, and grandchildren. Unsurprisingly, his advocates claimed the Canadian government was Israeli-influenced. Then immigration minister Kenney correctly proclaimed the case a "mockery" of the broken immigration system.

- **William Imona-Russel** is a Nigerian-born illegal refugee who entered Canada on a false passport in April 2003. He was ordered to depart in April 2004, but he appealed on humanitarian and compassionate grounds. While waiting action, he raped a former girlfriend in March 2005, infecting her with AIDS. He then raped and murdered another woman in July 2006, and was finally convicted of murder in July 2010. The point? If he had been deported when ordered, none of these crimes would have taken place and, incidentally, Canadians wouldn't have to pay for 25 years of his residence in prison.

The 2012 Revision of the Refugee Process

As noted and detailed above, the illegal immigrant case can easily morph into a labyrinth of legal and bureaucratic action regarding "refugee" status. With the creaking system threatening to grind to a halt, Parliament instituted some band-aid revisions in 2012 to address selected "refugee" problems; final approval was given in December 2012 with provisions to be implemented in 2013. The revisions included:

- The creation of a new Immigration and Refugee Board (IRB) with updated rules for its operation;

- Reduced time limits for claimants to draft and present claims to the IRB;
- Expedited hearings for hearings and appeals;
- A provision for addressing claims rejected at first level hearings to be determined as manifestly unfounded, ostensibly to help deter unfounded claims;
- Expedited review for refugee claims from 31 "safe" countries to which it is regarded that refugee claimants can be returned without prejudice to safety; no right of appeal for those whose claims are rejected;
- The prohibition of a right to pre-removal risk assessment and/or humanitarian-compassionate consideration for a year after arrival in Canada; and
- The authority to deport immediately after an adverse decision by the IRB.

Specifically, these revisions include limited provision for claimants even from countries considered respectful of human rights (previously described as "safe countries" but now simply "designated countries") to appeal a negative ruling. The original government proposal would not have permitted such appeals on the basis that "safe" is "safe" regarding countries so designated, and refugee claimants could be directly returned to such countries.

Moreover, in an effort to address the backlog of 47,300 claims (as of April 2011), the revised law supposedly fast-tracks the entire appeals process with shorter deadlines for handling refugee claims, creates an appeals division, and expands resources for addressing cases. Cases will supposedly be resolved in two months rather than the previous 22-month average for an initial decision. Theoretically, a claimant appealing a negative ruling to the Federal Court of Canada can also be deported while awaiting court action. However, the Canadian Border Services Agency notes among its list of "reasons for delay" in removal, "Failure to Appear." In short, is the rejected claimant, "in the wind" so far as declining to appear for removal?

It will be interesting to see whether there will be any significant change or just how much anticipated juridical appeals to these rules will delay their actual implementation, let alone their operation as conceived.

The "Safe" Third Country Issue

A specific element of refugee deportation is the concept of the "safe third country." Such an agreement prohibits a refugee who has initially landed in a "safe" country, such as the United States or Canada, from subsequent asylum shopping by making a refugee claim in another country. Since 2004 there has been a U.S.-Canada Safe Third Country Agreement in force. It was regarded as advantageous for Canada as most such potential claimants would have attempted to enter Canada from the United States. The agreement permitted Canada simply to reject a claimant at the border without allowing entry (and opening its refugee claim process to the claimant). Nevertheless, Canadian Justice Michael Phelan struck down the agreement in an astonishing judgment in 2007. Phelan contended that the United States systematically practices torture and thus did not qualify as a "safe" country. Consequently, anyone passing through the United States and into Canada was no longer subject to the provisions of the Safe Third Country Agreement and could claim

refugee status in Canada. Presumably, such an individual could not be returned to the United States since Phelan concluded the country practices torture. This, one might say, "tortured" conclusion with only the slightest veneer of legality would have burdened Canada with any illegal immigrant that could slip into the country by any pretext. Moreover, if sustained, this position would have made it all but impossible for Canada to extradite any criminal to the United States, since the government would be extraditing the individual to a country that practiced torture.

One can imagine that the United States virtually choked over the implications of the Phelan proclamation. That outrage was stoked by a January 2008 Canadian "training manual" prepared for its diplomats that listed the United States and Israel as countries where foreigners risk being tortured or abused. Then U.S. Ambassador David Wilkins denounced the listing as "absurd," and Ottawa quickly delisted (so to speak) the United States and Israel. But it was regarded as an unnecessary shin kick reflecting institutional bureaucratic attitudes toward the United States.

Importantly, the Phelan proclamation was reversed on appeal in July 2008. The Federal Court of Appeal in effect said that Phelan had vastly overreached; that the human rights NGOs that brought the case had no standing to do so (nor did the individual claimant). Moreover, whatever the practices of the United States, consideration of the practices was irrelevant since the Canadian government had taken U.S. compliance into account with the appropriate international agreements into account when concluding that the United States was a "safe third country." Representatives of the NGOs (Amnesty International Canada and the Canadian Council for Refugees) professed to be "deeply disappointed" and vowed to appeal in March 2009. The Supreme Court declined to hear further appeal.

Violating the Residency Rules

In a completely separate category are immigrants and permanent residents who are regarded as not meeting the requirements for residency in Canada (two of five years) to retain their status. These phantoms obtain "green card" status, essentially for "parachute" rights if circumstances in their homeland turn toxic, and spend as much time as possible for business or family reasons in their native states while essentially ignoring their residency requirements in Canada. If caught up (or perhaps denounced by personal enemies), they also have an extended review, appeal, and federal court process prior to (if ever) being stripped of their permanent residency status. Although hardly the sole offending national groups, one can find these immigrant ghosts in Hong Kong, Lebanon, and the Persian Gulf states. One room further into this haunted house are the Canadian citizens-in-nationality-only (labeled "Canadians of convenience"), who having obtained Canadian citizenship, return to their country of origin and live completely abroad. They pay no taxes—but if there is a crisis, they demand repatriation and assistance, as illustrated by the 2006 evacuation from Lebanon that cost Canada $94 million to "rescue" 15,000 people—7,000 of whom reportedly returned to Lebanon within a month. Again, a circumstance illustrating how Canada gives much—and recoups little—from many immigrants who exploit Canadian taxpayers for personal benefit.

In mid-2011, the government reported it had

identified more than 3,000 individuals that it was investigating for obtaining citizenship fraudulently. But as of early 2013, less than 10 percent of those individuals (only 286) had been located and charged—and of these, 90 percent reportedly will fight the charges. Greater energy to the situation would be a welcome approach; between 1976 and 2010, only 66 persons had citizenship revoked. Consequently, "we shall see" whether this latest move is more than a paper proclamation. As of February 2013, only 12 citizenships had been revoked stemming from new fraud investigations.

In contrast, the United States requires its citizens—no matter where they are living—to pay taxes on their earnings. This requirement, increasingly enforced, has not been amusing for substantial numbers of U.S. citizens living in Canada. But citizenship should have obligations as well as privileges.

The Problem for the United States

Much of the foregoing does not directly affect the United States other than providing an invidious example for U.S. bureaucracy to avoid. To be sure, the tens of thousands of illegal immigrants with unexecuted deportation orders and the upwards of 500,000 surreptitious illegal immigrants in Canada are a significant concern as they illustrate to potential terrorists that the Canadian immigration and control system is feeble at best and paralyzed at worst. Such a conclusion drives previously discussed and examined U.S. decisions to emphasize border control and enhanced security for identity documents.

Of particularly troubling nature, however, has been Canadian coddling of U.S. military deserters and criminals for whom the United States is seeking extradition. Both of these policies fall under the heading of deliberate and malicious anti-Americanism, not even thinly disguised as punctilious adherence to Canadian law. Although this topic will be examined in Chapter 5, the following provides some further review.

Deserters

There are significant numbers of Canadians who apparently believe that any military action is wrong. Certainly any military action not specifically sanctioned by the United Nations is wrong. And doubly certain is the belief that any unilateral U.S. military action is wrong in every particular instance. And triply invidious was any U.S. military action that could be attributed to policies of former U.S. President George "Dubya" Bush.

From that basis of logic, anyone who seeks to evade a military obligation to the U.S. Armed Forces is a hero to be supported politically, economically, socially, and legally as long as juridicially possible. Today's reality is that there is no compulsion to enter U.S. military service; there is no draft as was the case during the Vietnam War. For well over a generation, all members of the U.S. Armed Forces have been volunteers—just as those who enter police forces and fire departments. Those who have deserted from their military duties are in no way correlated to Vietnam-era deserters; they have, in effect, the same status as those who have broken a contract that they were paid to implement. Would Canadians offer financial assistance and legal support to a firefighter who declined to enter a burning building to rescue innocents trapped on an upper floor while excusing himself for being afraid of

heights or because his skin was sensitive to heat? Military desertion, incidentally, is a crime punishable by life imprisonment in Canada.

Reports of the number of military deserters in Canada range between approximately 50 out-of-the-closet deserters and vague estimates of between 200 and 400 others; however, the obvious point is that whatever the figures they nowhere near approach the number of deserters during the Vietnam War, where upwards of 60,000 Americans fled to Canada. However, the proximate examples in this era are Jeremy Hinzman and Brandon Hughey. Both escaped to Canada in 2004 and have received more Canadian media attention in the intervening years than all of the million-plus U.S. military personnel who have served honorably and effectively in Iraq and Afghanistan.

The Hinzman and Hughey story has been an extended litany of escape and evasion. Apparently they joined the Army primarily for the financial and educational benefits, then decided that service was onerous, and elected to end it—on their terms, rather than honoring their contract. Thus, in Canada they claimed to be conscientious objectors, but admitted during refugee hearings that they did not object to bearing arms. Primarily, they claimed that U.S. military action in Iraq was illegal. The IRB rejected the claim, noting that questions of the war's legality could be addressed in U.S. courts. Successive applications for judicial review to Federal Court, Federal Court of Appeal, and the Supreme Court of Canada were dismissed or refused; action by the Supreme Court came in November 2007 when the court refused to hear their appeal. Such a decision simply was another step in the evasion process: a deportation order was stayed in September 2008; Hinzman's appeal on "humanitarian and compassionate grounds" was rejected in April 2009; appeal of this decision to the Canadian Federal Court of Appeal was heard in May 2010, and in July 2010 the Appeals Court overturned the previous decisions. Hinzman's case was to be reconsidered by a different immigration official; however, by mid-2013, there was no decision. Returning Hinzman to face U.S. justice has become a massively protracted process.

Starting in mid-2008, a handful of deserters have returned voluntarily or been deported, although they appear to be the less devoted to resistance and without creative legal talent at their command.

The masters of creative, anti-American mischief remain the NDP. Following the Supreme Court's rejection of the Hinzman and Hughey appeals, the NDP introduced legislation in the Parliamentary Standing Committee on Citizenship and Immigration in November 2007 to permit otherwise unoffending military deserters to remain in Canada. It was passed in June 2008 with Opposition votes (137-110), but was regarded as nonbinding and the government ignored it. Following the October 2008 election that resulted in another Tory minority government, the NDP resumed its reindeer games and again passed essentially the same nonbinding motion—which suffered the same fate as the previous nonbinding resolution. Never daunted, in September 2009, Liberal MP Gerard Kennedy presented a private member's bill that would have required the government to adhere to the requirements in the two previously passed nonbinding resolutions and permit deserters to apply for permanent residency. In September 2010, Kennedy's measure failed in its second

reading before Parliament. Kennedy was defeated in the massive Liberal implosion in the May 2011 federal election, and no other Liberal revived the bill. Nor has the NDP (now the Official Opposition) picked up its previous cudgel, but the temptation to use any available stick to prod the Tories and concurrently the United States may prove irresistible.

Even were Kennedy-style legislation never to pass, and private members' bills rarely succeed, it is a distraction designed essentially to embarrass the Tories and discomfit the United States. There is a pathetic element to these tactics where parties posture with no thought of the consequences, seeking sound bites for the evening news while ignoring potential damage to the bilateral relationship.

A little creativity could be a useful approach in an area where the real stakes are rather small but nationalistic pretensions can elevate them disproportionately to their actual value.

But that would require forsaking the podium and public relations proclamations.

5 CRIME AND (LACK OF) PUNISHMENT

Non-lawyers (and perhaps also some lawyers) vacillate between fascination with and fear of the law. No one can read the biography of the great nineteenth-twentieth century U.S. Supreme Court Justice Oliver Wendell Holmes *(Yankee from Olympus)* and not conclude their reading with an impression of "the law" as one of the great civilizing forces of humanity. There is surely elegance and intellectual purity as well as clear language carefully devised to address essential human and societal concerns. To those of us who practice a profession with discipline and attention, reverence for "the law" can be understood as an abstraction, even when its practice may be questionable. Similarly, the mathematician knows "the elegant universe" and the weapons designer appreciates the engineering purity of a nuclear device. Of course the convolutions of the law can be as baffling to the layman as the dimensions of the universe, and its individual application on specific citizens, often appear as personally appalling as the use of nuclear weapons on nations.

The "rule of law" versus the rule of nature, i.e., force without constraint, is a bedrock element of the struggle for civilization. As long as people exist as more than solitary individuals, there will be a requirement for social structures and regulations. These may be as direct and ostensibly simple as the Ten Commandments or as convoluted as the U.S. tax code, but the need for (and heed of) them remain societal imperatives (although admittedly, it would be nice to reduce the tax code to 10 precepts).

For Americans observing the Canadian legal system and its operation, there is a bit of the distorted "fun house" mirror effect. You think that you know what you should be seeing, but it often appears askew in areas such as the determination of guilt, the punishment of those convicted and their subsequent release, and the operation of police officials. So, too, can the views of Canadians concerning justice outside of Canada—and particularly in the United States—sometimes be baffling.

As was explored in a discussion of its origins and operation in *Uneasy Neighbo(u)rs* (Jones and Kilgour, John Wiley, 2007), Canadian law evolved from English common law, but following the implementation of the North America Act and the Constitution Act of 1867, it moved from case law to a codified system

of law. The power to enact criminal law is vested solely in Parliament with the provinces responsible for administering justice. Consequently, while there are municipal bylaws, provincial regulations, and orders in council, Canada still has the advantage of a systematic single source for criminal law. One could say that all criminal law in Canada is federal law.

But the questions always remain: who interprets laws and who enforces them?

From that reality is derived the aphorism that every family needs a doctor and a lawyer among its members but hopes to have need of neither.

At its best, the law is dispensed with equality ("without fear or favor"); overseen and administered by trained, incorruptible professionals; and enforced by skilled public officials with a careful appreciation of the rights of citizens and rigorously calibrated use of force. At worst, none of the foregoing applies.

It is not that Canadians are rousted from their beds at 2:00 a.m., beaten to a pulp, and then executed on the streets; nor are they routinely thrown into durance vile without legal recourse after preemptory kangaroo court proceedings. The questions, or, if you will, doubts, regarding Canadian law and order are more subtle.

It is more that the application of law appears capricious with the protection of Canadian citizens secondary to the protection of the right of miscreants. The professional quality of Canadian law enforcement officials has become questionable. Canadian law appears to have "cultural carve-outs" for specific ethnic or racial groups. Furthermore, Canadians project contempt for the laws of others and insist that their interpretation of justice should be compelling globally—and in particular, the United States should take juridical guidance from Canadian examples.

Canada, the Law, and Crime

Canadians take considerable pride in their self-evaluation of being a peaceful, law-abiding society. Indeed, by a favored calculus (the number of murders per 100,000 in the population), Canada can take satisfaction. But overall crime statistics are less satisfying. The murder rate for 2005-06 was significantly higher than the previous 10-year average, and murders rose 7 percent in 2013. And, for what it is worth, violent crime in Canada as measured by Statistics Canada in 2010 was up 306 percent and property crime rose 39 percent compared to 1962. The overall crime rate was up 114 percent from the 1962 baseline. Canada leads the industrialized world in marijuana use and is third in cocaine use, behind only Spain and England. Vancouver has the highest break-in rate in North America (nearly four times that of New York City).

Moreover, the Statistics Canada General Social Survey, taken in 2009, indicated that ever fewer Canadians are reporting crime—31 percent compared to 37 percent in 1999. This figure was reconfirmed in the 2013 *Police-reported Crime Statistics in Canada*. Crime declines when you don't report it—just as the U.S. unemployment level declines when workers are too discouraged to seek work. (Unemployment totals include only those who are actively seeking employment.)

It was a generation ago, in 1971, that then Liberal Solicitor-General Jean-Pierre Goyer

stated that, "The present situation results from the fact that protection of society has received more emphasis than the rehabilitation of inmates. Consequently, we have decided from now on to stress the rehabilitation of offenders, rather than the protection of society." But a generation of this focus has hardly been successful.

Nevertheless, when elements of Canadian society express their concern over crime, they are immediately assailed by chattering class columnists and told to just look at the pretty numbers. Unfortunately, for every victim of a crime, there is at least one crime too many, and it is not terribly comforting to be told that you are a statistical anomaly and should put on a happy face.

The question of crime is one of perception as much as reality. When the media take an "if it bleeds; it leads," view of news, the public will have a different perception of reality than if news about crime is suppressed or deliberately down-played. And there were certainly societies (such as the former Soviet Union) in which one never read about crime, or current societies in Africa or the Caribbean in which information on crime is suppressed to prevent tourists from concluding that they are the high value prey in the national game preserve. But when a local crime—regardless of how horrifying—is seized upon by national media for a national audience, then it is feckless for national media to claim that the public should not generalize about the prevalence of crime. They have made the previous "all crime is local" adage into an "all crime is national" (and even global) twenty-first century news phenomenon.

People are skittish; most Canadians live very safe, well-protected essentially risk-free lives. Canada is the global equivalent of a gated community, and its official crime statistics are designed, if not directly manipulated, to prove it. Nevertheless, Canadians are older—and the elderly are well aware of their increasing mortality, fragility, vulnerability, and slower healing time; a mugging is not a shrugged-off, transient event for a septuagenarian. Economic security, international peace, and high technology have steadily altered popular attitudes toward danger and reduced popular willingness to accept dangers that are not personally controlled, e.g., winter sports and high speed driving. Hence very little in the way of perceived threat is required to generate disproportionate popular reaction—and reversing the perception of threat is a long-term process. How many muggings would it require along Ottawa's Rideau Canal pathways to whisk away the casual walkers and joggers? How many years of effort did it take to reclaim New York City's Central Park from feral human predators and return it to a vista where a young matron or daughter can push a baby carriage without concern?

Consequently, the drumbeat of criticism against Conservative efforts to revise laws against criminal activity and essentially make punishment more protracted for criminals was a misapplication of statistical analysis. The left-leaning critics argue that it is feckless to spend more money on incarceration and stricter laws when crime is declining and proposed legal code revisions "won't work" (citing their interpretation of the U.S. experience). They refuse to consider that the jailed criminal is not committing crime.

They never consider (let alone concede) that the time to be tougher on crime is *when* it is declining to accelerate its further reduction. They never count the social costs of criminal action—estimated at almost $100 billion

annually by the Department of Justice in 2008—only the costs of incarceration. And they always ignore emotional costs to victims. Their 2011 federal election campaign against "Jets and Jails" had no traction; "tough on crime" is a better political slogan as well as being a better social approach.

The reality remains that Canada jails a lower percentage of its population than other English-speaking democracies for example, the UK, New Zealand, and Australia). With 28 federal prisons more than 40 years old—including the circa 1835 Kingston prison—Canada has spent little on prisons over the decades, the last federal prison having been constructed in 1988. Canada is most certainly not the United States, despite the wails of critics. South of the border, we can appreciate that tougher attitudes toward criminals is socially responsible.

Hate Crime

Is every crime by one member of a racial, ethnic, or religious group against another individual from a different racial, ethnic, or religious group subject to prosecution as a "hate crime" in addition to whatever physical consequences were inflicted by the attacker on the victim? Does "hate" count only if inflicted outside the attacker's group? Could a "Black Muslim" be guilty of a hate crime against a Black Baptist? Does "hate" count in the balance only if it is related to a crime inflicted on a minority? Does anyone believe that minorities regard other societal groups with respect and admiration; indeed, could they hate these groups even more than they are hated in return? Would it be a hate crime if a robbery or assault is perpetrated by a visible minority yelling that "I hate rich #&%$"? Does the damage done by the "Occupy…" denizens or other protestors qualify for that sobriquet?

Or would it be a hate crime if a furious feminist screamed, "I hate male chauvinist pigs," while physically assailing an anti-abortion protestor?

But once Canadians head down the thought-crime slope, the emergency escape ramps seem few and far between. "Thought crime" has an Orwellian tinge, but describing an event as motivated by "hate" rather than fear, envy, greed, anger, lust, malice, or any other emotion generates a visceral twinge making an observer wonder which emotion is next on the list of those to be prosecuted. For example, should a Jimmy Carter clone in Canada be prosecuted for assault because he admits to having "lusted" after a woman in his heart? (Certainly it is a sinful act in Christian dogma, but should it be punished by juridical action?) Should the hatred that Jews feel toward Muslims—and vice versa—be criminalized if its expression is no more than vigorously verbal?

Although not confined to Canadians since the "hate crime" category has gone further in Canada than most other countries, Canadians need to reconsider whether emotional motivation is at all relevant.

As noted ahead in Chapter 6, the Canadian Human Rights Act's Section 13 has been used to intimidate legitimate free speech. One could conclude that it is a "hateful" approach to limit expression. Not so amusingly, "free speech" has been deployed to permit "Israel bashing" to a dimension that is so close to anti-Semitism that it is a distinction without a difference. Those practicing such "speech" are given free rein, while the prospective counter-comment by Israel supporters is de facto prevented by demonstrators that the police deign to control. The classic case in

this regard was the September 2002 instance in which Israeli political leader Benjamin Netanyahu was prevented from speaking at McGill University in Montreal by an unruly mob. Netanyahu was punished by being prohibited from speaking; the demonstrators violated a variety of laws without constraint. Likewise the annual hate fest, "Israel Apartheid Week" in Canada, has shown meticulous attention to the rights of the anti-Israel speakers and neglect for the physical safety of those who would speak in support of Israel. Such individuals are subjected to what one might regard as "hate speech" if Canadians were interested in even-handed application of such laws.

Another illustration of this dichotomy was the mob action at the University of Waterloo in November 2010 that prevented Christie Blatchford from discussing her book, *Helpless: Caledonia's Nightmare of Fear and Anarchy, and How the Law Failed All of Us*, which addressed the plight of Canadians abandoned without police protection during the Indian takeover of land in Caledonia, Ontario. Subsequently, the university apologized—but Blatchford was prevented from speaking and has not returned.

Making the Law Fit the Culture?

There is an observation to the effect that every little language does not need its own nation state. This conclusion was driven by the twentieth-century, Woodrow Wilson-derived concept of self-determination of peoples that has seen the increasing fragmentation of previously consolidated states—a breakup often with little political logic for the political divorce. The same impetus is driving the conclusion that every special interest group should have its own law. Previously, the epitome of justice was there is one law for all; not "one for the rich and one for the poor." The "one law" concept is a painstaking historical evolution from circumstances under which the "Jones clan law" differed from the "Smith clan law," and codification of law is regarded as a major cultural advance toward a coherent society.

Thus the current devolution of law into specialized fragments is even more invidious in a country espousing the virtues of multiculturalism. While a fragmented country may rid itself of a wildly discordant, hostile linguistic minority (or even one, such as Quebec, that just decides to "go its own way"), multiple sets of ethnic and religious legal codes existing simultaneously within a nation state present endless opportunity for conflict.

Recently there have been efforts to institute competing legal systems within Canada. Specifically, Jewish and Islamic (sharia) religious codes were presented as alternative methods for resolving cultural and family disputes for believers. Although Jewish law had been in effect since 1991 in Ontario, the "logic" of implementing sharia was so repugnant, given its potential restrictions on women (and particularly for immigrant women least likely to be cognizant of their rights), that in September 2005, both systems were rejected. Baby and bathwater together exited the parallel judicial system. Obviously, such a decision does not prohibit Orthodox Jews or observant Muslims from accepting the equivalent of legal guidance from a spiritual leader on social or cultural issues, but it deprives any religious judgment of juridical standing.

Happily, the legal emphasis has been that religious conviction must be subordinate to personal protection and societal norms. The recent (2012) horror story regarding four "honor killing" murders by three family members has reinforced the legal strictures. Thus an adult can refuse medical intervention, even with the expectation that death will be the result; however, parents cannot let their children die in accordance with their religious belief, even if the child insists on such a choice. A child must be protected until reaching a point of chronological maturity regarded by society as sufficient to permit the individual to make his or her own decisions.

Less happy for Canadian harmony is the status accorded Native Canadians. It is not that individual First Nations are permitted to enact their own tribal rules outside Canadian law—although such a process has been seriously proposed and the operations of tribal councils have little external or federal supervision. Indeed, if the law of individual band councils is determinative, Native Canadian women would be the most restricted and victimized given the operation of male-dominated, patriarchal traditional legal systems. But, in the end, if Canadians accord First Nations the equivalent of autonomy, there will be legal consequences for *non-aboriginal* Canadians living on reserves or regarded as subject to First Nation regulations.

The real issue for Canadians is that First Nations violate Canadian law with impunity. It is bad enough when such action is against other aboriginals on reserves; however, aboriginals hardly restrict themselves to self-contained illegality. There are repeated cases of Indian trespass, extortion, blackmail, and intimidation regarding property that one or another group decides is "theirs." Others will block a highway or access road pending resolution of an ancillary issue in a manner satisfactory to the offending group. And Canadian authorities just grin-and-bear the illegality, accepting it as policy.

The cases have been protracted and endlessly disruptive. Among the most noteworthy was the 1990 Oka crisis that resulted in the Mohawks blocking the Mercier Bridge into Montreal throughout the summer over a land claim dispute. One Canadian security official was killed during the course of several violent encounters between armed Mohawks and Quebec security forces; however, no one was ever arrested for the killing. Another case had the Stoney Point Ojibway band seize the park area of Ipperwash, including property long owned by Canadian homeowners, claiming that it should be returned to them, having been taken for a military training camp during World War II. During an initial confused confrontation, a native was killed; however, the extended highly politicized investigation and reviews focused on the errors of the Ontario provincial authorities and the supposed culpability of then premier Mike Harris rather than on the illegal trespass and violence of the Indians. In May 2009, having suffered as much negative publicity as possible, the province of Ontario transferred control of the site to the Chippewas of Kettle and Stony Point First Nation. There has been no final judgment on the rights of the local property owners.

And in February 2006, members of the Six Nations reserve south of Brantford, Ontario, occupied the Douglas Creek Estates development preventing further construction and comprehensively disrupting life and commerce in the local town of Caledonia. For more than four years, the squatters

comprehensively terrorized non-native citizens, extorting, blackmailing, and beating those who did not accept their jurisdiction or attempted to resist their criminal attacks. Reportedly, substantial additional illegal activity (stolen cars and narcotics) also operated from the area—again with impunity. The police stood aside, creating the equivalent of a "no go" zone; the police were clearly intimidated, if not actively terrified by the prospect of actually enforcing the law. One man, attempting to defend his property in 2007, was clubbed repeatedly with a two-by-four and suffered permanent brain damage. In January 2012, his assailant was given a two-year sentence (excluding time already served). The disgraceful nature of these events and the pitiful circumstances of non-native victims were comprehensively described in Christie Blatchford's aforementioned seminal account, *Helpless*.

The province of Ontario bought out the housing tract developers in 2006, reportedly for $12 to $16 million; however, a civil suit by 440 residents and 400 businesses contesting the continuing police failure to protect them was filed and persisted. In the midst of court action—immediately before anticipated testimony by police that they were ordered to withdraw—the suit was settled for $20 million in July 2011. Individual suits remain active. Ultimately, in another illustration of specialized application of hate speech or preventing free speech, as noted above, Blatchford was repeatedly prevented in November 2010 from addressing audiences to discuss *Helpless*.

The result is pathetic—a misguided sense of responding to alleged aboriginal grievances has substituted endless legal maneuvering for measures to assure the personal safety and property rights of the Caledonia citizenry. That Canadian residents have lain down and "taken it" is even more pathetic. And the efforts of the police establishment to avoid the legal consequences of their refusal to protect the citizenry are appalling.

Idle No More

The most recent, indeed baffling, illustration of aboriginal entitlement and arrogance was the "Idle No More" movement during the winter of 2012-13. The unfortunately named group, suggesting that aboriginals were "idle," was characterized by an extended "hunger strike" by Rubenesque band chief, Theresa Spence, who pitched a tipi on Victoria Island in the Ottawa River, near Parliament Hill. Spence, previously under attack for fiscal mismanagement of her remote Ontario reserve, counterattacked with extensive demands for government revisions of prospective legislation affecting environmental issues and property rights. She demanded meetings with the governor general, the prime minister, and various senior government leaders. During the course of her hunger strike, ultimately lasting more than 40 days, she showed little visible physical change but held court with a steady stream of senior political opposition figures, including Justin Trudeau and former Prime Minister Paul Martin. In the interim, "Idle" members conducted ancillary demonstrations and civil disobedience including blocking roads and rail lines—actions that police essentially ignored.

Ultimately, the government caved to Spence's demands with an orchestrated session on January 11 including a cameo appearance by the governor general and day-long attendance by the prime minister, senior aboriginal-responsible government officials, and an array

of tribal leaders. The result was a predictable, public relations declaration promising further consultation on specific concerns.

Ms. Spence has returned to her reserve, having demonstrated that if you pick the time and place for your tantrum, you can get results, regardless of the factual merits of your case. And, indeed, there are no charges against the various disruptive demonstrators.

In contrast, Canadians can be assured that Americans—well aware of their Second Amendment rights—would have responded vigorously to home invasions, assaults, and attacks by armed bands—whether they were nineteenth-century bank robbers, twentieth-century motorcycle gangs, or violent trespass by twenty-first-century Native Americans. The militia reaction is far from dead; "vigilante justice" has become a term of opprobrium; however, it is better than no justice (at least for those defending themselves).

A society that abrogates its responsibility for implementing one law for all of its citizens will drive the conclusion that there is no law that all must obey and that any law is a subject for debate rather than adherence. ("One law for the rich; one law for the poor" is the classic injustice.) Such a society will prompt, later if not sooner, vigilante action by citizens desperate to protect themselves or simply rejecting the privileges accorded to others.

A secondary, but pertinent point, is the human rights-directed concern that the number of aboriginals in prison is disproportionate to their percentage of the population. A counter argument remains that aboriginals commit a disproportionate amount of the crime and hence are appropriately represented in prisons. Indeed studies indicate that for criminal cases in which race is identified, aboriginals commit about 20 percent of the crime—approximately their prison percentage. The fear that the Canadian population will actually *know* who is committing the crime has led police to suppress data on race; the reality doubtless being that proportionally "visible minorities" commit more crime against other Canadians than majority citizens commit against visible minorities. And the commensurate concern is that with this knowledge, Canadians will be politically incorrect in their views of those committing crime.

But to contend that it is society's responsibility to redress aboriginal circumstances rejects the reality that most aboriginals act in a lawful manner and that the issue is individual rather than societal responsibility.

The Enforcers: Canadian Police

For Americans of a certain age, the radio brought us Sergeant Preston "and his great dog, King" as the image of the Royal Canadian Mounted Police (RCMP), who "always got their man." And for a more recent generation, *Due South*, with the handsome Mountie and his deaf, lip-reading wolf-dog Diefenbaker, provided U.S. audiences with an image of RCMP competence in assisting the Chicago police.

Unhappily for those in the United States who have moved beyond the images of yesteryear, the RCMP has a rather less iconic air. It has become an organization more epitomized by having Walt Disney create its action figures than by jut-jawed efficiency. In that regard, it remains all but impossible for a U.S. observer to comprehend the level of RCMP incompetence that allowed an intruder to enter Prime Minister Jean Chrétien's official residence in November 1995 and then remain outside while the Chrétiens coped with the

armed man. Likewise, the total failure of the security box around the prime minister in February 1996 resulted in Chrétien confronting a protestor who never should have gotten within yards of him. These security failures were so basic and elementary that, although one assumes they have been corrected, they have created persistent underlying doubts about RCMP professionalism. Canadians have relied so long on the essentially peaceful nature of their society (never having endured the trauma of a prime ministerial assassination) that they believe they live in a benevolent paradise—any awaking would bring the nightmare world of reality into their dream existence.

Moreover, while criminals can always "get lucky" and kill a security officer anywhere in the world, several relatively recent RCMP deaths appear to reflect significant inefficiencies or lack of training. The murder of four RCMP officers in March 2005 in Mayerthorpe, Alberta, has been extensively investigated and subjected to detailed reviews and studies. Failures were systemic; the murderer had constant hostile interaction with police and neighbors; many charges against him were pending; he had been imprisoned for various offenses. However, he was still able to kill four presumably well-trained officers in what was supposedly a carefully secured crime scene with weapons that as a convicted felon he should not have had. Canadians deliberately avoided issues of RCMP competence—speaking ill of the dead is neither good local nor national politics—but these questions remain dangling, free-floating as ghosts behind the extended investigations. Indeed, the 2009 conviction of two local residents for manslaughter based on having given the murderer a ride back to his residence and provided him a shotgun smacks more of retribution (they should have known what he was going to do even though they had nothing to do with the shooting) rather than direct and active criminal behavior on their part. The Alberta Court of Appeal in September 2010 followed by the federal Supreme Court in August 2011 denied their appeals. The Mounties got their men—but hardly a glorious illustration of justice.

Even more reprehensible was the death of Douglas Scott, a 20-year-old constable who was shot to death in November 2007 in the Nunavut town of Kimmirut. Scott, too young to smoke or consume alcohol, had been on the job in Kimmirut for six months. It is hard to believe that he had been adequately trained or was sufficiently experienced to be responding to night calls alone. The RCMP was clearly over-committed and undermanned for its responsibilities in the area. Dispatching Scott to this emergency was almost the equivalent of sending a lone 20-year-old Canadian Forces member to check a disturbance "outside the wire" in Kandahar. Convicting a sodden drunk for the murder to a life sentence in January 2010 is an inadequate response to the crime; the real crime is the blithe tolerance for aboriginal alcoholism and RCMP inadequacies in coping with crime in the cold, far away North.

A November 2007 incident at Vancouver's Airport revealed a situation where the RCMP's use of tasers was casual rather than calculated; RCMP officers killed Polish immigrant Robert Dziekanski. The release of a cellphone video comprehensively refuted the original statements and alleged lies by RCMP public affairs officials regarding Dziekanski's actions. The RCMP was brutal in apprehending an individual who appeared more confused than dangerous, and was

dishonest and disingenuous in explaining the case. Again, the results of a comprehensive study released in June 2010 excoriated the RCMP officers involved, saying that the officers involved were not justified in their taser use. However, the BC coroner ruled in June 2013 that Dziekanski's death was a homicide.

The RCMP was too quick in earlier announcing it would not lay charges against the four involved Mounties. False testimony during the course of the investigation opened the officers to prosecution, which became evident in a perjury trial in June 2013 for one officer (now on medical leave), who was quickly acquitted in July, with separate trials for each of the other three later in 2013 or 2014. The charges and trials (more in response to the negative publicity of the detailed study than any commitment to justice) will drag on and end inconclusively with official admonitions and temporary suspensions from duty. Dziekanski remains dead—but his mother received compensation to drop her civil case against all involved.

Other media-reported instances of taser use seem designed to pile on the police rather than to protect the innocent. So we read media accounts of children being tasered. The reality is that every out-of-control miscreant does not respond calmly to a "stop, please come with me" request from authorities. Tasering such an individual is safer than shooting; and the alternative of hand-to-hand combat can have painful even dangerous consequences for security personnel, who deserve protection as well.

But the foregoing is symptomatic; the RCMP's problems are systemic. Essentially, the force is attempting too many roles. It is a combination equivalent to Canada's FBI, Drug Enforcement Agency, Secret Service, and white-collar crime Securities Enforcement Commission. It also provides security for federal facilities, including airports and, in a number of provinces, the RCMP serves as the local police force. As a result of being virtually ubiquitous in Canadian policing, it is doing none of these jobs particularly well. Moreover, it is now regarded as politicized rather than politically neutral; popular trust in its probity has declined. For example:

- The RCMP comprehensively mangled the investigation into the Air India terrorist bombing that destroyed a passenger aircraft in 1985 killing 329. Two decades of investigation and painfully protracted legal procedures resulted in aborted trials and still more investigations with no satisfying conclusions regarding those responsible for the attack. Indeed, the long delayed final report released in June 2010 was a scathing depiction of a "cascading series of errors" resulting in the catastrophe. Turf wars between the Canadian Security Intelligence Services (CSIS) and the RCMP prevented intelligence sharing, and the post-bombing investigation was replete with error.

- At least some of the information identifying Maher Arar as a terrorist suspect was generated by the RCMP and passed to U.S. security officials in 2002. Canadian legal review subsequently determined that the information was incorrect; Arar received a $10 million financial compensation in 2007 for having been deported by the United States and incarcerated in a Syrian prison for upwards of a year. RCMP procedural and technical errors were the basis for the Arar case, which continues to damage U.S.-Canadian intelligence sharing relations.

- The massive $9 billion Bre-X gold mine swindle in 1997 reportedly was investigated

by a single agent whose conclusion reportedly was that it was too complex to pursue. The now 10-year-old Integrated Market Enforcement Unit (IMET) as of December 2007 had laid one charge in a major case and four in minor cases, despite a $40 million budget as of 2010 and a staff of 112 full-time Mounties. Its web site report for 2008-09 claimed to have charged 26 people with five convictions since starting in 2003; however, in January 2013 it lost a high profile case against Nortel executives.

- The RCMP charges linking former Prime Minister Brian Mulroney to bribery associated with Canadian purchases of Airbus aircraft in 1988 prompted libel charges by Mulroney—a case that he won, but in which the RCMP failed to pursue other areas of potential malfeasance not revealed until 2007-08. Had the information relating to German fixer Karlheinz Schreiber been known earlier, Mulroney might well not have won his libel case.

- In 2000 the president of the Business Development Bank (BDC) of Canada raised questions regarding the legitimacy of loans extended to the Grand Mere Inn, whose owner was closely associated with then-Prime Minister Chrétien. Rather than investigating the charges, RCMP officers raided former BDC President François Beaudoin home, seized records, and brought charges against him. The case devolved into a wrangle over forged documents and Beaudoin's role in rejecting a loan to the Grand Mere with intimations that the RCMP had been politically prompted in its action.

- During the course of the 2006 federal election, the RCMP responded to a question by the NDP regarding knowledge of a major financial move by the Liberal government in a manner that implied wrongdoing by the finance minister and his staff. The RCMP response to the NDP (a response which was not required) further damaged the electorate's view of Liberal integrity, already badly tattered by the Sponsorship scandal. Ultimately, no legal action was taken on the allegation of insider trading, and the conspiratorial conclusion has persisted that the RCMP manipulated the election to Tory benefit.

- Senior RCMP officials systematically misused the organization's pension fund, a circumstance revealed during investigation in 2007. Whistleblowers were initially suppressed, but ultimately the RCMP commissioner was forced from office. Senior RCMP officials were largely unpunished. Unfortunately, the successor, William Elliot, a civilian without RCMP experience, became tangled in internal bureaucratic personality idiosyncrasies and lost whatever institutional support he might have had. In early 2011 he announced he would resign and subsequently was lateraled into a position as Interpol's UN representative beginning in November 2011.

- In December 2011, Harper appointed 25-year RCMP veteran Bob Paulson as commissioner; he was immediately plunged into a variety of lawsuits (one class action by 300 women who worked for the RCMP contending extensive harassment). Although sexual harassment garners the headlines, plaints about bullying, workplace hostility, and lack of promotion for women (approximately 20 percent of the RCMP) are still other existential problems for the Mounties.

Obviously the foregoing is illustrative rather

than inclusive. Nonetheless, RCMP problems of every dimension—institutional, attitudinal, and bureaucratic—seem to persist without effective remedy.

Over the years, and now over the decades, there have been repeated reviews and investigations of the RCMP. Some have argued for breaking up the RCMP, e.g., eliminating its role in provincial law enforcement (as is the case for Ontario and Quebec, which have provincial police); creating an independent SEC-type agency to replace the IMET; and hiving off responsibility for airport security. Other studies have urged more adult supervision (a civilian complaints board), proposed greater funding and hiring 5,000, to 7,000 additional uniformed officers. Serious questions regarding the RCMP contract for Alberta arose before it was extended for 20 years in 2011. Likewise, British Columbia raised concerns in 2011 over the costs of its proposed RCMP contract due to expire in 2014; but after some good cop/bad cop posturing, the province agreed in mid-2012 to another 20-year contract.

Institutional resistance has proved impervious to reform. As one observer put it, "they have all looked at the horse manure but not the horse." Nevertheless, Canada's "horsemen" badly need to be brought into the twenty-first century before what has become an embarrassment evolves into a catastrophe.

Use of Force in Canada

"Put up your hands and surrender"—or words to that effect—are supposed to end action by a criminal when confronted by authority. But every encounter between Canadian citizens and Canadian security officials does not end with Canadian-level politeness. Sometimes the citizen resists, is recalcitrant, belligerent, flees, or attacks the security official. Unless the criminal is to be permitted to escape or the security official is to be regarded as a punching bag, some measure of force is necessary. The rule of thumb when employing force is to use that amount sufficient to subdue the individual, discourage further resistance, and prevent injury to others. Force is supposed to be proportionate to need, and limited to the degree necessary to subdue and constrain the individual being apprehended.

In short, the police are enjoined from beating an individual into a quivering, unconscious wreck. This result previously was the consequence of having to subdue an out-of-control individual with "billy clubs," but not shoot. Some previous direct contact methods of subduing an individual, such as "the choke hold," resulted in death when inexpertly applied. So for the past generation, police forces have attempted to arm themselves with various incapacitants such as tear gas, pepper spray, and now tasers. These stand-off devices offer the additional benefit of not having to directly engage with very strong, psychotic, or drug-affected individuals whose gouges and bites can be dangerous to the security officials—who are also citizens whose rights and security are not irrelevant in the law enforcement process. They are, to be sure, hired to "go in harm's way"—even to the extent of "unlimited liability" so far as personal risk is concerned; however, suicide is not part of the job description for apprehending or subduing an individual. Indeed, it is extremely difficult for those who have never experienced maniacal or drug-enhanced strength to appreciate or comprehend the level of force necessary to control such an individual.

Consequently, the current Canadian controversy over the use of tasers is

misguided. Tasers have become collateral damage from shocking (so to speak), but idiosyncratic cases such as the above-cited death of the Polish immigrant Dziekanski and occasional other unfortunates. If there is specific abuse by security officials, it must be prosecuted and those responsible punished. However, the critics do not address the negative aspects of alternatives or appreciate the injuries inflicted both on those apprehended and the law enforcement officials in the pre-taser era. Nor is there significant follow-up exploration of the event beyond the *prima facia* response that someone died after a taser was used. It is not unusual to find that a combination of drugs and personal medical problems was the proximate cause of death, but toxicology is slow and media interest quickly evaporates, leaving the drive-by conclusion that if the individual is dead, the taser did it.

But the critics of taser use barely nod in the direction of "what is the alternative?" Canadians with a criticism need also to offer a productive alternative. It would be interesting to match those critics against an out-of-control individual and see what coping mechanisms they adopt and whether their efforts succeed. Sweet reason may well not work.

Punishment

There is a traditional disconnect between those who wish individuals convicted of crimes to be punished in a meaningful, physical manner and those who seek to change the nature of individuals so they will not re-offend. A penitentiary was so named so that incarcerated individuals would become "penitent" after contemplating their wrongdoings and emerge to "sin no more" (or at least not re-offend legally). The storybook "hard labor" of convicts endlessly breaking stone with sledgehammers while dragging iron balls chained to their legs would now be regarded as "cruel and unusual" punishment; today's convicts don't even have the privation of being restricted to black-and-white television sets. The weight of official Canadian penal attitudes appears to be that restrictions on personal liberty are sufficient punishment. The consequence of such attitudes, however, is the impression of Canadian prisons as the equivalent of luxury accommodations for convicts. Although it is anecdotal, it is none the less telling that a U.S. prisoner in a Canadian jail resisted being repatriated to the United States, informing the visiting U.S. consular officer that the Canadian jail was much more pleasant than any comparable U.S. facility. And conversely, Canadians convicted of crimes in the United States seek repatriation to warm and fuzzy Canadian prisons.

While such a "club fed" depiction is doubtless unfair, it would be hard not to gather such an impression from the photographs and descriptions of Karla Homolka's prison time. For one of the most infamous criminals in modern Canadian history convicted of a consummately vicious crime, Homolka appeared to have a remarkably pleasant and untroubled prison existence replete with socializing. Following her prison release, name change, marriage, and motherhood, Canadians suddenly became aware in 2010 that a provision in their law permitted her to apply for a "pardon" five years after release from jail (the issue was also pertinent when a prominent hockey coach, found guilty of 350 sexual assaults against a junior player, was discovered to have been pardoned in 2007). Pardons were so free and easy that only 800 of 4,000 were rejected in 2009. But the thought of a pardon for Homolka was so

stomach-turning that even Canadians were nauseated.

Consequently, in June 2010, Parliament rushed through legislation that could have been called the "Homolka Horror" bill." It extended the waiting time for application and made it more difficult for those guilty of multiple crimes, particularly those with sexual elements, to secure a pardon. The absurdity is not that an early pardon for Homolka has been forestalled, but that such an abortion of justice was even contemplated. Its mere existence in the Canadian criminal justice system, let alone being a normal part of the criminal justice process, causes U.S. jaws to drop.

But one also recalls the sob sister journalist lamenting that it was not fair to restrict "Paul" (Homolka's partner in crime, Paul Bernardo) from human contact 23 of 24 hours per day. And that he was not permitted to further his education or learn a trade. It is almost a caricature to note that the Homolka-Bernardo victims have no human contact 24 hours per day and that Bernardo's previous educational experience and accomplishment resulted in him being a sadistic murderer.

Three Strikes

Another puzzling element is Canadian unwillingness to recognize or at least to appreciate that crime is done by criminals—and for the career criminal, crime pays. The Canadian government estimates that 50 percent of the crime is done by 10 percent of the criminals. It has been U.S. recognition of that reality that prompted the "three strikes and you're out" laws, which put individuals convicted of three felonies in jail for life. Yet recent government efforts to toughen criminal law to permit extended jail terms prompted reflexive opposition criticism, essentially along the lines that such sentences do not reduce crime. Until the Conservative majority victory in May 2011 majority victory, such opposition resistance stalled tougher action against criminals. Indeed, the results of extended jail sentences can and will continue to be argued by penal experts, but there is no question that this approach removes substantial numbers of criminals from further antisocial activity. The oft-ignored reality is that the "third strike" is just the third time that a criminal has been apprehended and convicted; the unmentioned likelihood being that the criminal has committed hundreds of crimes that were not solved.

As a proximate illustration of a criminal career, one can recall Tracy Lloyd Carza, who came to general public attention in March 2008 after stealing the rings from a 91-year-old woman in Vancouver who was recovering from having her leg amputated. At age 47, Carza had 50 criminal convictions over a 30-year criminal career, never serving more than a few months in jail; one wonders how many hundreds (if not thousands) of crimes he has committed and why his career attracted so little serious punishment or any attention until he stole the wedding rings of a nonagenarian. Or, just how many other comparable offenders deserve extended, "three strikes" prison terms.

Thus it is instructive of the Canadian psyche that in spring 2010 the government pushed forward a "Truth in Sentencing" bill to limit the credit a judge can give a (convicted) accused for time spent in prison awaiting trial. The countervailing argument was over the cost of keeping these individuals in jail for longer periods. To be sure, a conservative government wanted to project a "tough on crime" image to constituents, but it is remarkable how the Opposition fell over itself

leaping into the pit of arguing that the costs are prohibitive. It may have been a case of winning the battle and losing the war, as similar arguments during the 2011 federal election fell flat. An old adage says, "a cynic knows the price of everything and the value of nothing," and the Opposition's failure to appreciate that the Canadian population is more secure when those who have committed crimes are in jail appears to be a special blind spot for the Liberals and the NDP.

This particular problem was partially addressed by elements of the 2012 omnibus anti-crime package. Specifically, it instituted mandatory minimum sentences for sex crimes and child exploitation; it eliminated conditional sentences to be served in the leisure of home for sexual assault, manslaughter, and arson (also ending "double credit" for time served); and it revised sentencing for young offenders, guilty of "violent offense." Critics are challenging the law in court with the hope of delaying, if not reversing its provisions. Quebeckers claim it is unfair to young offenders, unconstitutional, and the federal government should absorb any new costs.

Even more troubling is the remarkably early release schedule for Canadian criminals and the apparent inability to prevent release of sexual predators. While again this is a condition the 2012 anti-crime package professes to address, particularly early releases and greater controls for sexual offenders, there is much reason for concern until one determines just how the new legislation plays out in practical, specific cases.

An earlier Canadian study in this regard was released in December 2007 by the Correctional Service of Canada Review Panel (*A Roadmap to Strengthening Public Safety)*. It examined, *inter alia*, the concept of "statutory release" legislated into effect in 1992, requiring the release of federal inmates after they had served two-thirds of their sentence, with a few restrictions regarding the type of crime and the requirement for oversight following release. Unfortunately, the panel concluded, statutory release has failed: 40 percent have their release rescinded either for violating conditions or for new offenses. They are twice as likely to re-enter federal prisons as someone released on full parole. The inmates on statutory release are only 35 percent of criminals on early release programs but account for 79 percent of violent crimes.

Although there are options for retaining convicts in prison beyond the statutory release mark, it is almost never done. According to the National Parole Board, 5,716 inmates were entitled to statutory release in the 2006-07 fiscal year, but only 250 were reviewed, primarily those convicted of particularly violent crimes, sexual offenses against children, or serious drug offenses—and deemed a threat to repeat such crimes. Fewer than 4 percent of all eligible were held beyond the statutory release point.

Given the evident failures of the statutory release system, the panel called for its elimination and replacement by "earned parole." This approach was regarded as appropriate for the current Canadian prison system with a growing percentage of violent offenders serving sentences of less than three years and thus with little incentive to participate in rehabilitation programs. They just "wait it out."

There are no cheap or easy answers. A requirement for more prisons is always expensive—and reminds Canadians that their society has more violent criminals than they wish to believe it does. One can be

concerned about extended incarceration of individuals, but the alternative is releasing them to victimize the innocent. In that regard, no doubt most Canadians are relieved (but not amused) that one of the killers in the "Just Desserts" slaying in 1994 was arrested in February 2008 for possessing a large amount of crack cocaine, having been released just in January. On the other hand, Albertans may be less pleased about the handling of multiple rapist Keegan Spearchief who was released in Calgary in March 2008 without having completed court-recommended rehab. Spearchief, who stands six foot five inches tall, is quoted as saying that "if drunk, yes; if sober, no" when asked about whether sexual attacks were acceptable. Monitored for a year by Calgary's high-risk offender program, he was re-arrested in July 2009 for (alleged) peeping Tom activity—he left his wallet and cell phone under the window. He was repeatedly released on bail, but supposedly wearing a GPS ankle bracelet. Ultimately sentenced in February 2011, he was returned to prison—but not designated a "dangerous offender." One can be sure that Calgarians feel more secure in their beds at night for the moment, but not for long, as he will be released for another round of predation.

Self-Defense

The right of armed self-defense is strongly protected in the United States; most recently in the Martin-Zimmerman case in Florida, resulting in George Zimmerman's full acquittal where the jury took cognizance of the beating Trayvon Martin was inflicting on Zimmerman. Indeed, in some states even the belief by an armed individual that he is threatened justifies the use of weapons. Canada ostensibly has comparable protections for individuals in their homes being invaded by hostile individuals, but in a number of recent instances, the defenders found themselves as beset by the law as any attackers:

- A 1995 attacker in Ottawa broke into an apartment claiming he would kill the occupant. The occupant (a legal gun owner) shot and killed him—and then struggled for years against a murder charge before it was dismissed. Police failed to come despite a 911 call,
- In May 2009, a Toronto Chinatown grocer pursued a repeat shoplifter, subdued him, and called the police. The police arrested the shoplifter but also the grocer and two other grocers, charging them with assault and forcible confinement. In October 2010, a judge acquitted the grocer and his companions; meanwhile, the shoplifter had his charge reduced for testifying against the grocers,
- In August 2010, three masked men threw Molotov cocktails at a man's rural property and into his home. The resident, a legal gun owner, came outside and fired several shots in the air and one into the ground, driving off the attackers. Video surveillance film resulted in their arrest—but the property owner was arrested for firearms related offenses. Before the attackers faced trial, in February 2012 he was standing trial charged with unsafe weapons storage. Acquitted in early 2013, his legal fees totaled $60,000, and
- In August 2011, a Toronto man found a burglar in his girlfriend's home. In the ensuing struggle, he stabbed the burglar. While the burglar was charged with breaking and entering, the defender was charged with aggravated assault—punishable with 14 years in prison. The case remained outstanding in October 2011.

In all of the foregoing cases, essentially innocent individuals—who were attacked and defended themselves—have as a result been treated as criminals, harassed, and forced into court procedures costing thousands of dollars. The public is left with the impression that police and the justice system are unresponsive and heavy-handed when they do respond. Moreover, any attempt to defend one's self with weapons prompts a draconian response—police very clearly prefer an unarmed citizenry totally dependent on them for protection. Noteworthy is the tactic of levying charges of unsafe storage against any owner not employing a trigger lock—even if the lock had just been removed for self-defense. And then, as in the Caledonia example, they decline to protect the unarmed citizenry.

On a slightly lighter note, one recalls the May 2013 case where a seventh-grade boy tackled a classmate threatening another with a knife. Commended? Hardly, he was reprimanded and lectured by school authorities for not hastening to get a teacher.

Capital Punishment

It is one of the defining differences between U.S. and Canadian society that Canada officially takes pride in having eliminated capital punishment while in the United States, polls repeatedly show high percentages of the population endorsing it. (A comparable Angus Reid poll in 2010 found 62 percent of Canadian respondents favored capital punishment for murderers, but there will be palm trees growing in Yellowknife before the Canadian political structure would reinstitute it.) Nevertheless, if the government and the Official Opposition are so convinced that capital punishment is uncivilized, why have Canadians never addressed the question in a national referendum? The point is that chattering class Canadians know that they would lose a referendum on the subject—just as capital punishment remains overwhelmingly endorsed in the United States.

If Canadians wish to claim the moral high ground by releasing Karla Homolka to become a mother—and condemn Americans for executing Timothy McVeigh for killing 168 people in the 1995 Oklahoma City bombing, they are welcome to their sanctimony. Or if they believe that a seven year sentence is appropriate for the teenager who choked an 80-year-old woman to death, we won't rattle your chains. We are well aware that the Canadian government will not practice capital punishment, but tire of their snide intimations of superiority that we should follow their course. Consequently, one hopes that Canadians are pleased that Clifford Olson died of natural causes in prison in 2011—having been convicted of murdering 11 children. Americans simply see such societal coddling of the epitome of evil as an abomination.

Canadian Law and U.S. Justice

There is always the potential for legal disconnects when two large countries with endless exchanges of persons and property exist side by side. The millions of benign transactions are ignored while the aberrations generate public attention. Thus, although both Canada and the United States are committed to the rule of law and the sanctity of justice, there is a steady stream of cases that roil the waters. What puzzles Americans, even long-time observers of Canada, is where Canada puts its emphasis. The following is a medley of legal cases on both sides of the border in which Canadian positions appear idiosyncratic.

Ronald Allen Smith

The Canadian government announced in early 2008 that it would no longer make special pleas on behalf of Canadian prisoners facing the death penalty for multiple murders in countries where there has been a fair trial. The proximate case was that of Ronald Allen Smith, who shot two Blackfoot Native Americans in 1982; there is no question that Smith murdered the men, and he has been struggling against execution in Montana for 30 years. Smith's advocates profess that he is a changed man; indeed, one might assume he has changed *inter alia* by virtue of having limited access to drugs and alcohol in prison. His two victims have also changed—but they have only decayed.

In March 2009, the Canadian Federal Court instructed the government to continue previous practice in seeking clemency for Smith from the state of Montana. In July 2013, Smith remained on death row, pending further appeals; however, in March 2013, Montana again rejected a legislative effort to eliminate the death penalty leaving him in jeopardy.

There is a *chutzpah* factor in the Canadian complaint that Smith should not be executed that raises U.S. hackles, and also in the Canadian court orders demanding that the government badger U.S. authorities in this regard. Essentially, these Canadians argue that a Canadian killing Americans in the United States should be treated as if he were killing people in Canada. That is, the laws of the United States or any other state should not apply to a Canadian, regardless of how carefully enforced, judicially applied, and rigorously observed, if they accord a Canadian less privilege than the Canadian would receive in Canada. Indeed, they appear to reflect and certainly imply the belief that Smith (and presumably all Canadians) should have extraterritorial privileges. Moreover, they may argue, had Smith been extradited to Canada as was his companion, he would doubtless be walking the streets, "having paid for his crime." Indeed, this legal approach will instruct Canadians to drag their future victims across the border into Canada before (or after) killing them.

The absence of Canadian self-awareness in this regard is fascinating. Doesn't this activity qualify as interference in U.S. domestic policy? How would Canadians react if U.S. legislators claimed that a murderer such as Paul Bernardo should be executed? Or if U.S. officials denounced the 2007 verdict that permits the Pickton pig farm murderer to get a prison sentence (rather than execution) for his multiple (perhaps as many as 49) killings? What if a Canadian killed a U.S. tourist in Canada, and the United States demanded extradition after a Canadian trial? Or sought the killer's extradition to the United States for trial? Would Canadians comply?

To be sure, the Conservative government borrowed trouble by taking its stance against special treatment in the Smith case in 2008. What it is actually doing in response to the federal court ruling regarding pleas for Smith with the state of Montana is unclear. Without taking a controversial position in 2008, it could just as well have continued to make meaningless and feckless pro forma interventions with U.S. authorities—which would have been ignored or dismissed with distain by local authorities. We assume that Ottawa will make the same type of interventions with the same type of results, but profess to feel morally superior about it.

Omar Khadr

A corollary to the Smith case is that of Omar Khadr, who killed a U.S. Army medic and severely wounded another U.S. soldier in Afghanistan in 2001. Khadr, who was 15 years old at the time, was fighting as an illegal combatant for the Taliban when, rejecting calls to surrender, he grenaded the U.S. soldiers. Although wounded, Khadr was treated by U.S. forces and subsequently transferred to the Guantánamo prison facility, where in October 2010, he pleaded guilty to all charges and was sentenced to eight years in prison (not including time served). In October 2011, he requested transfer to Canada where he arrived at an Ontario prison in September 2012 (the Tory government not being enthusiastic about recovering this native son). Transferred to an Edmonton facility in May 2013, there was no indication how long he would be incarcerated in any Canadian "Club Fed" prison as, if he is no longer held in maximum security for his murder conviction. He moved from a maximum security prison to a medium security prison in February 2014. One can expect that upon release, he will be lauded as a hero finally escaping durance vile, free to write his book, and milk his survival into profit.

Still, Canadians were and remain outraged, arguing that Khadr was a teenager at the time, "a child soldier" not responsible for his actions; that he has been "tortured," denied his rights as a Canadian, and should be released immediately regardless of his actions, having been imprisoned since 2001, etc. Repeatedly during his imprisonment, there were calls for the Canadian government to demand his instant release. Throughout the process, Canadians made every effort to interfere in the U.S. legal process: the Federal Court of Canada declared in April 2009 that Khadr's Charter rights had been violated and the government must demand his return to Canada. In January 2010, the Supreme Court agreed his rights had been violated but did not require the government to act (managing to avoid direct interference in the executive branch's right to conduct foreign affairs).

The Canadian fibrillations over Khadr reflect simple anti-Americanism and are a caricature of reality. Omar Khadr was the luckiest teenager in the world and remains one of the world's most fortunate adults. Just how many times in combat does an enemy kill the unit medic and survive to be captured? Let alone that Khadr was operating outside of any formal, national military framework and instead fighting de facto as part of a terrorist gang. That he was not summarily tried and executed is apparently irrelevant to Canadians. These critics of U.S. action expend not a scintilla of concern for the widow and now fatherless children of the murdered medic (and the blinded U.S. soldier goes totally unmentioned). Somehow Khadr has become the victim—as if Canadians should be able to travel the world, kill U.S. soldiers, and suffer no consequences (particularly if they do so under the age of 18). Recalling history and the individual capabilities of teenagers, an American might conclude that if Khadr was old enough to be throwing grenades, he was old enough to imprison.

Jeffrey Arenburg

Jeffrey Arenburg was the paranoid schizophrenic killer of sportscaster Brian Smith in Ottawa in 1995. He was deemed sufficiently insane that he never came to trial; instead he was institutionalized and treated until 2004 and subsequently given a full, unconditional release in 2006. On November

29, 2006, presumably a changed man, he attempted to cross the U.S. border, where he was refused entry. Unfortunately, Arenburg was not as much changed as one would hope and Canadians presumably believed. At least this time unarmed and limited in the damage that he was able to do. The customs agent whom he punched out doubtless is glad he was not shot. Reportedly Arenburg was "quickly subdued" and then incarcerated in a Buffalo prison, pending charges of assault on a federal officer. Question: Did Canadians want him back? Answer: No—. In September 2008, Arenburg was jailed for two years, but released in September 2009 and returned—unsupervised to Canada where medical judgment was that he "would likely suffer from psychotic symptoms if he stops taking his medication."

The unfortunate reality regarding schizophrenia is that the medication taken to control the condition often has very unpleasant side effects, so unpleasant, that going "off the meds" is a common action. The psychotic, feeling good, professes to be healthy or cured. And subsequently that was what was reportedly behind Arenburg's actions. Moreover, the medications do not always continue to work, even if initially effective. It should be noted that John Hinckley, the attempted assassin of Ronald Reagan in 1981, remains institutionalized with very limited outside visits to his family. Presumably, Canadians would be sympathetic with John Hinckley; Americans have more sympathy for our border control customs agent and disgust for Canadian inability to institutionalize their psychotics—or at least keep them under tight medical supervision.

Conrad Black

The saga of Lord Black of Crosspatch has fascinated Canadians for decades. Conrad Black is doubtless one of the world's more intelligent entrepreneurial geniuses as well as a historian of merit. His efforts to revive the Canadian media, including the creation of a deliberately conservative newspaper, *The National Post*, both delighted and infuriated separate sectors of Canadians. Unfortunately, Black projected the air of being as pompous and arrogant as he was intelligent and creative. What resulted was a classic clash between a powerful financial leader and an equally powerful and vindictive political leader who was less than amused by Black's media attacks. The outcome was that Prime Minister Jean Chrétien employed an obscure ruling to prevent Black from becoming a British lord while remaining a Canadian citizen. Nonplussed, Black stormed out of Canada, slammed the door behind him, and renounced Canadian citizenship along with delivering excoriating criticism of the country.

But Lord Black stumbled. To truncate a legal case that dragged for years, the United States charged and convicted Black of fraud and obstruction of justice based on irregular financial activity in the United States, sentencing him to six years in prison that he began serving in February 2008. In June 2010, elements of his fraud convictions were set aside by the Supreme Court and returned to the sentencing court for reconsideration. Black's obstruction of justice conviction continued to stand. Further appeals failed, and Black was returned to prison in September 2011 still whining about U.S. justice and proclaiming his innocence. Released in May 2012, he continues to

characterize U.S. prisons, as scarcely better than the black hole of Calcutta.

But a fascinating subplot was that Canadians were outraged. Here you have a non-Canadian, who directed a considerable amount of vituperation against Canada, imprisoned for violating U.S. laws. The trial was carefully conducted; Black was defended by a stable of the most expensive and talented U.S. and Canadian lawyers. But Canadians believed they should have a say in how long a sentence he served and how he should be incarcerated—some even argued that he should serve it in a nice Canadian prison! As far as Black is concerned, Americans are more inclined to say, "if you can't do the time, don't do the crime." And if a U.S. magnate is convicted of crimes in Canada, one doubts whether Americans will complain so vociferously.

Canadian Law and International Justice

In the summer of 2011, there was one of those scratch-your-head exercises demonstrating that Canada might as well be on the dark side of the moon so far as the attitudes of some of its citizens are concerned. To wit, in July the Public Safety ministry posted on its Web site pictures and names of 30 individuals whose requests for refugee status were denied by the Canadian refugee system; they then disappeared prior to deportation. They were suspected war criminals whose presence in Canada was illegal.

But the CBC refused to publish the names and photos—ostensibly due to invasion of their privacy and unproved allegations. Of course the CBC will publish photos of other individuals sought for criminal offenses. And various human rights groups wanted them tried in Canadian courts (at a cost of millions of dollars with indeterminate results) rather than returned to their countries of origin. These positions, of course, had nothing to do with "privacy" or "human rights" and everything to do with liberal attitudes that immigrants, regardless of their legality or criminality, need protection from security forces.

The good news was that by mid-August, six of these "Dirty Thirty" had been located and arrested; three had been deported. Whether the remainder of those escaping-and-evading 30 will be apprehended or the ever-so-slow-grinding deportation machinery will actually remove them from Canada is another story.

That Little "Extra" in Extradition

The concept of extradition is reasonably clear. An individual cannot commit a crime in one country and then escape to another to evade punishment. Nor can a citizen of one country go to another country, commit a crime there, and return to the home country to escape prosecution. Two countries reach agreement that they will "extradite" such individuals, returning them to the country in which the crime was committed to face trial, and punishment, if convicted. The crimes for which Canada and United States seek extradition must be crimes in both countries, and the individual must not be being prosecuted in the country from which he is being extradited. Thus, for example, an individual such as Gregory Despres, a naturalized U.S. citizen, was quickly extradited to Canada when charged with the 2005 chainsaw murder of two neighbors in New Brunswick. Naturally, Canadians complained that we should have acted more quickly—denying a U.S. citizen

entry to the United States when there was no outstanding warrant against him—and gave no thanks for our prompt extradition. How did the case end? In a March 2008 ruling, Despres was regarded as not criminally responsible. Presumably after treatment, as of mid-2013 he had been held in a penitentiary-associated "healing center," he may be regarded as cured—and have another opportunity for creative use of his chainsaw.

Thus the essence of extradition is simple; however, the reality—particularly the bilateral Canada-U.S. reality—has become increasingly complex. Is the "crime" for which a country is seeking the return of its citizen really political opposition on the level of "free speech" rather than a crime? Or more to the bilateral point even if an action is a criminal offense in both countries, if it is punished more severely in one country than the other, should the individual be extradited?

Canada has not always been particularly responsive to U.S. requests.

The Abdullah Khadr Case

Abdullah Khadr is the older brother of Omar Khadr. In a complicated exercise dating from his detention in Pakistan in 2004 on terrorism charges, after extensive interrogation by Canadian and U.S. government intelligence officials, he was repatriated by Pakistan to Canada in December 2005, followed immediately by a U.S. extradition request. Canadian officials jailed Khadr, but he fought extradition, claiming that confessions made in Pakistan resulted from torture (an unproved allegation beyond the intimation that incarceration in a Pakistani jail is the Canadian equivalent of torture). In August 2010, the Ontario Superior Court denied the extradition request and freed Khadr. A subsequent appeal by the Canadian government was rejected in May 2011, but in July the government further appealed the decision. Reportedly, Khadr's lawyer has said, "When a U.S. government… steps into a Canadian court they have to arrive with clean hands." And the Canadian court endorsed Khadr's credibility over the U.S. government request. In November 2011, the Supreme Court declined to hear the government appeal, releasing Khadr. The Ontario Superior Court judge sanctimoniously proclaimed that, "We must adhere to our democratic and legal values, even if that adherence serves in the short term to benefit those who oppose and seek to destroy those values." The sheep bleat; the wolves feast.

In July 2006, deep in the viscera of Canadian summer, the Canadian Supreme Court released two decisions on requests for extradition. Both were of obvious importance to the individuals whose efforts to avoid extradition were rejected by the Court as well as policy wonk extradition lawyers. Nonetheless, media and national attention remained focused on backyard barbeques, global summer silliness, and carnage in the Middle East. Understandable, as most of us are not lawyers or criminal offenders subject to the extradition hammer.

We pay attention to extradition only when some big name or big story surfaces: an individual charged with murder, an alleged organized crime figure, or a "King of Pot". However, these cases are but the tip of the iceberg. So far as Canadian-U.S. bilateral relations are concerned, extradition has the potential for instant escalation, so a little extra attention would be worth the while.

In the first instance, throughout the Vietnam War, Canada served as a haven for U.S. deserters and draft dodgers—individuals who

were indeed breaking U.S. law. These men received sanctuary in Canada as if they were pre-Civil War slaves who had escaped to freedom. There are former American citizens (now Canadians) who will never come "home" despite amnesty; just as there are Americans who still regard this Canadian action as the equivalent of giving aid and comfort to an enemy in wartime. Now the issue of U.S. military deserters for the Iraq and Afghanistan wars is in play.

Jeremy Hinzman and Brandon Hughey, U.S. Military Deserters

Although the cases of Jeremy Hinzman and Brandon Hughey were detailed during the discussion of Canadian immigration and refugee policy in Chapter 4, they warrant additional elaboration in review of extradition.

Hinzman and Hughey are U.S. soldiers who fled to Canada in early 2004. Both men were volunteers, not draftees. They contracted for "unlimited liability" associated with their military commitment. But military service entails risk—and they wanted only benefits. Firefighters may prefer to rescue kittens from tall trees and police officers to help old ladies across streets, but they also contract to enter burning buildings and go down dark alleys after armed criminals. But although the Hinzman and Hughey claims for refugee status have been repeatedly rejected and appeals turned down at every level, including the Supreme Court in November 2007, they remain in Canadian comfort. Although Hinzman was ordered deported, there is no expectation that he will be returned to the United States in the near term as his lawyers are now exploiting a new avenue of appeal (that he will suffer "undue hardship" if returned to the United States). Hughey has been less juridicially visible, although one can assume he will adopt the same legal tactics as Hinzman. Both have "gamed the system" for years and continue to play its angles with consummate skill and the talents of the best available Canadian legal assistance. They exploit the manner in which Canadian law operates to permit them to evade U.S. justice.

The relevant Canadian government bulletin regarding deserters released in July 2010 states that refugee claimants are inadmissible if they have committed an offense outside of Canada that would carry a maximum term of 10 years in prison in Canada, where desertion has a life imprisonment sentence. The bulletin has had no discernable effect on de facto anti-desertion action other than to prompt a Liberal private member bill to introduce a bill that would permit deserters to apply for permanent residence. That bill failed a second reading in September 2010 and has not been revived in the post-May 2011 election parliament by the Opposition, which may have better cudgels with which to belabor the government for the nonce.

The conclusion is that Canadians are ignoring U.S. requests for deserter extraditions. They opposed U.S. presence in Iraq and hell will freeze over (or global warming will become a new Ice Age) before Hinzman or Hughey will be returned to the United States by Canadian authorities. Even should every legal decision go against them, they will "disappear" into the confines of "friendly" Canadian society with their locations widely known, but no one willing to enforce deportation or extradition orders to arrest them and execute required legal action.

In the second instance, there are a number of crimes: murder and narcotics offenses that are potentially punished more heavily in the United

States than in Canada. In many jurisdictions of the United States, an individual convicted of first degree (premeditated) murder can receive the death penalty. Nowhere in Canada, regardless of how heinous the crime (read Homolka and Bernardo, Air Force Colonel Russell Williams, Clifford Olsen, or Robert Pickton), will a convicted criminal receive the death penalty. Canada has sought to receive assurances that an individual sought by the United States for first degree murder will not receive capital punishment; this is an unresolved issue. Indeed, what would Canada have done if Timothy McVeigh (the Oklahoma City bomber), the "Beltway Snipers" who terrorized metropolitan Washington, DC in 2002, or the Tsarnaev brothers (the Boston Marathon bombers) circa 2013 had reached Canada, which some reports suggested was their objective?

A listing that dates from late July 2006 (the latest material available) identified 320 individuals for whom the United States was requesting extradition, often on multiple charges. Of these, better than one-third (117) of the suspects were wanted on narcotics-related offenses. Next came fraud, including telemarketing fraud (92), and money laundering (42); both these offenses were often combined with "conspiracy" (116). There were relatively few violent, high profile crimes: 14 cases of homicide, manslaughter, or arson; and 16 cases of sexual assault or rape.

Clearly these requests are not handled rapidly. Among this 2006 group, there were 28 requests pending from 2000 or earlier (the longest from 1994) with another 16 dating from 2001.

As one might anticipate, there is much less action on the Canadian side: only 16 outstanding requests; however, with a higher incidence of violence (three for homicide, four assaults) but fewer (two) narcotics charges. One individual has been sought since 1994 for a homicide in British Columbia; he is currently incarcerated for an unrelated homicide in Ohio.

In a more recent case, Hassan Ammar's petition for a refugee claim was accepted in Windsor, Ontario, in November 2011. He sought to thwart extradition to Michigan for assaulting a nightclub worker, claiming he feared for his life "at the hands of Lebanese Shiites and Hezbollah". Just another puzzlement of Canadian law.

One fillip in Canadian prevarication in responding to U.S. extradition requests was the legal ruling in January 2008 that the United States practices torture and thus was no longer a safe third country to which individuals can be deported. Such a ruling—mischievous malice masked by legal language—would have provided accused murderers such as Arthur Carnes (arrested in British Columbia in January 2008 for a murder committed in California) further rationale to supplement his claim for refugee status in Canada. Even without these additional obstacles, convicted murderer Charles Ng fought extradition to California for six years before he was returned in 1999, whereupon the state convicted him of 11 murders. Now, 14 years later, he remains on death row.

Happily, as noted earlier, the "torture" ruling was reversed on appeal; we await the next illustration of Canadian creativity intent on proving that because the United States is not Canada, it is not an acceptable society—even for the worst of criminals to endure.

6 HUMAN RIGHTS AND WRONGS

Irish rock singer and personality Bono has offered the cliché: "The world needs more Canada."

To be sure. The world can always use another large, resource-rich, relatively unpopulated country that has a benign neighbor on one border and fish on the other three.

A country that has never been invaded and never been occupied can come to the conclusion that such circumstances denote virtue rather than chance. A country that has never fought for independence, successfully avoided civil war, and has escaped ethnic cleansing, racial massacres, brutal dictatorships, and murderous repression may find the full spectrum of human rights to be a convenient and natural national standard. A country with every conceivable economic opportunity and technological advantage can conclude that its sociopolitical circumstances are natural templates for others.

Or that its sanguine idiosyncratic circumstances should be projected universally.

Of course Canada is hardly unique as a nation that seeks to generalize globally from particularized experience. It is a rare country indeed that is not a hero in its own eyes and its history books, and a paradigm for emulation in its leaders' speeches (for example, in the annual speeches by visiting dignitaries at the UN General Assembly annual opening session). However, many others might conclude that Canada is the national equivalent of a man "having been born on third base but thinking he hit a triple."

To be sure, the Canadian government's commitment to protecting and extending human rights is worthy of sincere praise and respect. Canada and its citizens have much for which they can be pleased, thankful, and proud. Canada enjoys the proverbial language from its 1867 North America Act—"peace, order, and good government"—and by and large its people recognize their good fortune and live their lives within the rather wide parameters of existing law and regulation. Consequently, on a year-to-year basis, the annual U.S. Department of

State's *Country Reports on Human Rights Practices* evaluates Canadian human rights circumstances positively. Nowhere in Canada will one find any equivalent to the massive abuses of individual liberties prevalent in China, Iran, or North Korea; the intense religious repression evident in much of the Middle East or South Asia; the deterioration of once hopeful democratic developments in countries such as Russia; the murderous internecine conflict afflicting many African states; or the corruption and narcoterrorism in assorted Latin American states. Thus in the 2009 Human Rights Report (HRR), the key judgment for Canada was that "The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse." Although such a description might appear minimalistic and formulaic, even grudging in its phraseology, it was the bureaucratic equivalent of an "A" report card.

The 2010 HRR dropped such generalized language to avoid controversial national characterizations, but its overall characterization of Canadian human rights was unquestionably positive. The descriptions in subsequent renditions of the HRR have been positive as well, most recently for 2012—and deservedly so.

Nevertheless, the HRR's Canada chapter skirts or avoids a number of topics that are worthy of more searching and critical examination. Specifically, Canada has instituted, maintains, and is expanding limits on free speech to an extent that they are becoming serious constraints on press and media publication and public speech, resulting at a minimum in extensive self-censorship. The manner in which its aboriginal and Native Canadian community relates to its own members as well as to other Canadians is a matter of considerable controversy—and may well affect the rights of the Canadian majority as well as those of the aboriginal minority. Coincident with this problem is the question of whether Canadian property rights are adequately protected. The most basic element of protecting human rights, the structure of the legal system, lacks a level of balance, thus leaving it open to questions concerning the potential for official manipulation and abuse.

Following is discussion of some of these topics.

The Judicial System

The key to protecting human rights is an honest, well-designed, and respected legal system. As examined separately in Chapter 5, Canada is committed to the rule of law and has an elaborate system of law and regulation, police, courts, and appeals. The judicial system is independent and cannot be directly over-ruled by political authorities. There are no blatant exercises in judicial excess, imprisoning the innocent on the basis of fabricated evidence or in accordance with palatably unfair legislation, or systematic abuse of those arrested or imprisoned.

However, the manner in which federal judges are selected is one essentially without restrictions, controls, or checks and balances. The limitations are nominal; parliamentary oversight is risible—substantively absent although technically present for Supreme Court nominees. If the prime minister could not appoint his horse to the bench (as Caligula appointed his to the Roman senate), it is more because the horse was not literate in both official languages than that it was politically impossible to do so. The Canadian

judicial system depends totally on the fair selection of qualified judges by dispassionate political officials seeking to select the "best and brightest" from the spectrum of Canada's lawyers. Betting against abuse of such a system is not a good bet in the long run.

Consequently, the controversial charge during a recent federal election rings true, that the long Liberal Party domination of government (1993-2006) resulted in a judiciary reflecting Liberal policies and attitudes toward governance. Likewise the counter comment resonates—that the current Conservative government, now expected to be in power with a majority at least until the next election in 2015, is poised to reverse this Liberal domination. Indeed, how could it be otherwise when the prime minister appoints all judges without parliamentary review or debate—let alone a vote on their qualifications? It is based on an assumption of perfect probity and abstract idealism regarding legal outcomes that ultimately have profound social consequences. It is perfectly natural to select individuals, technically (perhaps even superbly) qualified in "the law" to be sure, whose political sympathies will ultimately be reflected in their legal decisions. In as litigious a society as is Canada, there is no shortage of technically qualified individuals of every political, social, or ideological persuasion—and in all conceivable ethnicities and genders. And indeed, the most intensely debated social issues in Western democracies: political representation; gender, race, and religious rights; marital arrangements; when life begins—and ends; and the personal use of chemical consciousness altering substances; are all "legal" issues. But in Canada, when the government appoints all of the judges, without significant external review or opportunity for public contribution (let alone subsequent "recall"), one can only anticipate that legal decisions ultimately will reflect the attitudes of the dominant political establishment that makes the appointments.

One obvious illustration would be the absence or exclusion of Quebec "separatist" judges from the federal system. Nor is there the slightest expectation that any will be appointed. On the one hand, why would any federal government presumably interested in its survival and effective operation put in positions of legal authority individuals who seek to end the country? On the other hand, there are doubtless highly qualified legal minds such as Daniel Turp, Lucien Bouchard, Jacques Parizeau, and Bernard Landry, who would be or would have been excellent judges. But they will never be accorded the opportunity. Does the systematic exclusion on political grounds of the approximately 45 percent of the Quebec population that might be identified as "separatist" deny them legal representation by their peers?

Likewise, one might ask whether the percentage of judges reflecting the socialist principles and attitudes of the NDP equates with the numbers voting for the NDP in federal elections (approximately 31 percent in the 2011 election).

Essentially, should political "proportional representation" as well as implicit gender proportionality apply to the courts as well as to elected officials?

The United States has taken a different approach. Our court system is "mixed" with some judges appointed and other elected. Invariably, however, there is a "check" on the power of the judges: those elected must face the electorate both initially and eventually again if they seek reelection. Those appointed

require legislative approval *and reconfirmation* for upward movement within the legal system. The results can be and are criticized as "political" and frequently politicized—as well as bureaucratically messy—both for those appointed and elected; however, both election and legislative confirmation for appointees provide additional legitimacy for controversial decisions and individuals that would otherwise be lacking. And the legal competence of elected judges arguably appears to be comparable to those appointed.

Both U.S. approaches provide a serious opportunity to examine the qualifications and attitudes of those placed in positions of legal authority over the population. This is quite appropriate. Twenty-first-century law is not delivered from on high in golden tablets; in a democracy, it is a reflection ultimately of evolving popular opinion. An unjust law—or simply one that is highly unpopular or has become unpopular over time—will not be obeyed. As an example, "substance abuse" is in the mind of the beholder or user, and views about which substance is most worthy of criminalization, e.g., narcotics versus alcohol versus tobacco, have changed over time and are still evolving. Likewise, for the protracted struggle to come to terms with individual sexuality and its societal ramifications.

A judicial system that is regarded as unfair or unrepresentative will not be respected, and when judges have no connection to those they are judging, their authority can become problematic. Consequently, when Canadian judges with no popular or parliamentary mandate increasingly enter public debate to whinge about the absence of respect for their decisions or them personally, it only begs the question of their standing both legally and in the public eye.

Abstractly, the U.S. Supreme Court might be constructed to incorporate the country's finest legal minds, perfectly cognizant of The Law—and thereby be composed of nine white Jewish males. Their legal brilliance might be unarguable; however, the societal acceptability of their decisions would be less than the current court, which, although hardly a direct reflection of the U.S. racial, ethnic, gender, and religious composition, has not systematically and deliberately excluded any group. Indeed, each member has gone through the fiery furnace of Senate confirmation and must appreciate, albeit it retrospectively, the legitimization that the process accords them.

And the many, frequent critics of individual Supremes can take grim satisfaction in having extracted at least a modicum of information on their judicial philosophy—and in a number of relatively recent cases either defeated them (Robert Bork) or forced their withdrawal (Harriet Miers and Douglas Ginsberg).

Hate Speech and Federal and Provincial Human Rights Tribunals

Reviewing U.S. analyses, Canada continued to get an implicit "pass" for its restrictions on freedom of speech in the 2009 HRR; however, there was somewhat greater critical observation than in the past. The report noted without endorsement or comment that "some advocates [of free speech] argued that the hate speech laws limit freedom of speech and criticized the requirement that commissions process all complaints received, the procedures that permit commissions to investigate and adjudicate complaints, and the ability of complainants to file

identical complaints with several provincial commissions, each of which may adjudicate without attention to others." The 2010 HRR repeated this observation, but the 2011 and 2012 HRRs simply note that "Laws prohibit speech or programming containing any abusive comment that would expose individuals or groups to hatred or contempt…" with federal and provincial human rights bodies empowered to enforce the law and/or provincial codes.

Still even such feeble demurs are a slight expansion on previous human rights reports. The 2007 HRR took only nominal notice of the free speech consequences of Canada's hate speech and human rights tribunals. Regarding the tribunals, there was, however, one not too subtle alteration of the 2007 text. Previously the 2006 HRR stated, "Human rights violations may be heard by the provincial or federal human rights commissions. Remedies can be monetary, declaratory, or injunctive." The 2007 edition stated, "*Alleged* [emphasis added] human rights violations…"—an appreciation that to be charged does not imply guilt. It also noted without further comment that Canadian journalists "increasingly criticized" human rights commissions for accepting cases "mildly critical" of religious and minority organizations (language not subsequently repeated in the 2009 or subsequent HRRs, this criticism presumably was regarded as subsumed within the earlier critique of the action of human rights commissions).

The wide-ranging latitude of Canadian provincial human rights commissions to charge individuals and publications with "hate speech" and force defendants into expensive legal defenses can only inhibit public examination of controversial issues. It has an obvious chilling self-censorship effect on all but the most combative journalist with very deep pockets to battle nuisance charges in the human rights commissions. And to fight them over and over—with the plaintiffs free to withdraw at any point without suffering a negative judgment—is the norm. Although there was pushback by journalists and the media in 2010 and 2011, the power of the human rights commissions—both federal and provincial—to work mischief remains largely unchecked.

The 2012 HRR also records and repeats previous HRR language without comment regarding Canada's essential limitations on free speech:

The Supreme Court has ruled that the government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. It also has ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms…

This approach is dramatically different from the approach of the United States where free speech is virtually unrestricted (no right to cry "fire" in a crowded theater when there is no fire). Canadians seem to believe that the childhood slogan that "sticks and stones may break my bones, but words will never hurt me" was designed for an era when its citizens were made of sterner stuff with stronger psyches. One awaits the case of pre-teens charged for the equivalent of shouting, "Your mother wears combat boots" at classmates.

Hate Speech

The origin of Canada's human rights tribunals

and the country's hate speech law is Section 319 of the Criminal Code circa 1985. Over the years, its focus was directed against anti-Semitic diatribes and Holocaust deniers and activists such as Ernst Zundel, James Keegstra, and Malcolm Ross. The result was a massive legal hammer with which to pound their and other comparably odious commentary with the consequences of firing, jail, fines, deportation, and restrictions on their publications.

In 1990 the hate law restrictions on free speech were upheld by the Canadian Supreme Court in *R. vs. Keegstra.* The Code states that a person cannot be convicted of promoting hatred if she or he establishes that the statement is true, but only where the accused proves the truth of the communicated statements on a balance of probabilities. Otherwise, a conviction would be a violation of Section 11(d) of the Charter. That section guarantees "the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal." Keegstra, being unable to prove that his anti-Semitic and Holocaust-denying statements were true rather than a matter of opinion, lost the case.

The David Ahenakew Case

One of the most prominent recent "hate speech" cases is that of former national chief of the Assembly of First Nations and lifelong Aboriginal leader David Ahenakew, who verged on the pathetic rather than the pathological. Ahenakew was charged in 2002 and convicted in 2005 under Saskatchewan's hate crimes legislation for vicious characterizations of Jews, the origins of World War II, and the Holocaust—that also had the onus of comprehensive error. Stating in an interview that Jews were a "disease" and that Hitler was trying to "clean up the world" when he "fried six million of those guys," Ahenakew attracted massive counter criticism across Canada—reaction driven as much by his prominence as the odious nature of the statements. And while offering apology, Ahenakew repeated his belief in his statements and reportedly blamed "the Jewish controlled media" for his problems.

The massive societal reaction included stripping him of the Order of Canada and general ostracism. Nevertheless, on appeal, the verdict was overturned in 2006, leaving the Crown the choice of a further appeal to the Supreme Court, retrying the case, or dropping the charges. In early 2008, the Saskatchewan Justice Ministry elected to retry the case, but in February 2009, Saskatchewan Provincial Court Judge Wilfred Tucker acquitted Ahenakew because his statements, while "revolting, disgusting, and untrue," did not show any intent to incite hatred.

During the course of this extended process, there was a degree of reconsideration, not of the acceptability of Ahenakew's views, but rather whether there was a teaching lesson in further belaboring a then-74-year-old whose mental stability could be questioned and whose physical condition was in decline. Was another round of racist ranting and rancorous rebuttal a productive defense of good sociopolitical conduct?

It is hard to extract a moral from this debacle beyond, "Keep your mouth shut regarding the Holocaust."

Ahenakew died in March 2010; he had apologized but never recanted his views on Jews. Nor did his acquittal get him back his Order of Canada.

Holocaust Denial

More generally, Canadians should re-examine continued prosecutions related to fascist and Nazi Holocaust denial. Ostensibly, Canadian laws restricting free speech and the creation of the human rights tribunals focused on "Holocaust deniers." They are individuals who claim that the massive slaughter of European civilian populations, particularly but hardly restricted to Jews, by the Adolf Hitler-led German Nazi government in World War II, did not occur. These individuals contend, *inter alia,* that no such events took place, in effect, that the Holocaust claims are a massive fraud of fabricated evidence and lies to foster sympathy and support for Jews, or that the Holocaust was created by the Jews. The deniers' objective is to promote a resurgence of fascism and anti-Semitism by attempting to erase the reality that Hitler and the Nazis murdered millions of completely innocent people.

Holocaust deniers are the current equivalent of proponents of a "flat earth". They are verbal exhibitionists with mental problems rather than social or political activists posing threats to public safety or order. If their words become deeds, there are adequate laws, such as those regarding assault, trespass, and destruction of property, that are capable of generating a more than adequate response to such crimes.

The issue for free speech advocates is the legal denial of such speech or of any speech—other than the classic statement that you have no right to yell "fire" in a crowded theater when there is no fire. Likewise, even vigorous free speech advocates accept limitations on speech that can be prosecuted in court as slander or libel (the definitions of which differ from country to country); these limits are also accepted globally albeit debated in their particulars.

Free speech demands that proponents of even the most unpopular political and philosophical opinion be permitted to speak. The classic adage attributed to Voltaire, "I disapprove of what you say, but I will defend to the death your right to say it," must remain the baseline for societal free speech. Thus Holocaust deniers should be vigorously confronted by those presenting the countervailing facts in any and every forum of opinion—confronted but not criminalized. Those who would prevent Holocaust deniers from speaking perversely imply that the deniers are correct—that the reality of the Holocaust is not convincing to an abstract, skeptical, or previously uninformed observer. Rarely, if ever, will respondents convince the denier; however, by suppressing the argument, they give it strength—as historically has been the case for all suppressed ideas whose attractiveness and presumed accuracy gain credence from those dubious of any government limitation or repression. It gives those "acting out" their alienation a safe rebellion—after all, they realize they will not be beaten to a pulp by Holocaust believers. When you make something illegal, you increase its allure while simultaneously giving those prosecuted for expressing a belief the status of a martyred underdog persecuted by a repressive "over-dog" state—as well as providing them with extensive publicity.

The United States has endured speech that is and remains overwhelmingly unpopular and offensive. The most obvious example is the burning of or other defacement of the U.S. flag which is regarded as "speech." Despite extended political effort to criminalize such conduct, its constitutional protection continues.

As another illustration, a 1969 Supreme Court decision acquitted a Ku Klux Klan leader of "advocating crime, sabotage, violence, or unlawful methods of terrorism" after calling for "revengeance" against African-Americans and Jews. The court's conclusion was that speech could be curtailed only when it moves to "incitement to imminent lawless action" and that the state "cannot constitutionally punish abstract advocacy of force or law violation." Other intensely felt and debated causes—from every U.S. military operation since the end of World War II to the rights (or not) of the unborn—have been vigorously, freely, and passionately debated. Canada should have equal courage to accept dissent.

In contrast, in May 2013, the York Regional Police told the rabbi of a local synagogue that if he permitted Pamela Geller to speak, he would lose his position as police chaplain. Geller is a vigorous opponent of sharia law who, arranged for a memorial for Aqsa Parvez, a Muslim girl "honor"-killed by her father in 2007. But a York police spokesman was quoted as saying, "Some of the stuff that Ms. Geller speaks about runs contrary to the values of York Regional Police and the work we do in engaging our communities." One really must wonder about these "values" as well as those of the rabbi who withdrew Ms. Geller's invitation.

Human Rights Tribunals

The original intent of the commissions was to serve as low-level, quasi-judicial bodies to arbitrate disagreements about housing, employment, and other problems, where a complainant believed that race or gender had resulted in discrimination against them. With that objective in mind, it was reasonable (or at least arguable) to provide anonymity to a plaintiff and, given the frequently impoverished nature of such individuals, provide financial support for them to pursue their claim. These praiseworthy objectives have been turned on their head; instead of comforting the afflicted, they are now frequently devoted simply to afflicting the comfortable. A commission was meant to deal with deeds, not words, attitudes, or ideas.

The core of the aberrant approach to the tribunals lies in the 1977 Canadian Human Rights Act (and associated provincial legislation) to implement human rights tribunals as described in its subsection 13(1). The section states that one cannot publish or communicate anything that "is likely to expose a person or a class of persons to hatred or contempt." One does not have to urge discrimination or express personal hatred of someone. All that is required for a complaint is the conclusion that the complainant was exposed to contempt. Accuracy is not a criteria; it is the feelings of the complainant that are being assessed. It is hard to construct something more open to malicious sanctimony and personal vendetta. And, although the *federal* element of this act was repealed in July 2013 (see below) the provincial legislation remains extant.

As reported, the rules and procedures of Canadian human rights tribunals profoundly depress any observer of human rights. One can only imagine the Kafkaesque reactions of those flailing in their toils.

Observers describe a system in which the recipient of a human rights complaint need not be told who the complainant is or what action is alleged. The recipient is left in limbo awaiting further information. The normal common law juridical rules of evidence are relaxed as are the standards of proof.

Many commissions hear a plaintiff in secret, denying a defendant the right to confront an accuser. Others admit hearsay. Unlike a defamation trial, the truth is not necessarily an adequate defense. There is no presumption of innocence. *The commission determines who may accompany a defendant as counsel and advisors as well as his right to call witnesses and experts.* The panelists are not judges; they need not even be lawyers. They can question the author or publisher on their "intent" and their thoughts in publishing material. Consequently, it is infinitely easier to convict a defendant in a human rights tribunal than in a court of law under hate crimes legislation. Reportedly in federal Section 13 cases, there is a 100 percent conviction rate. In effect, the accused is presumed guilty upon being accused.

Thus to be charged—regardless of whether convicted or having the accuser ultimately drop the complaint as is often the case—is to be severely damaged. The defendant must appear before the tribunal at personal expense (the accuser has expenses paid by the government). The defense effort may well absorb hundreds of hours of personal time (lost opportunity costs), tens of thousands of dollars, and unpredictable levels of emotional distress. It is the type of exercise that you would wish on your worst enemy.

As one example of such, the owner of a small business assisting new immigrants was taken to the Ontario Human Rights tribunal in 2009 over the claim of a dismissed, short-term employee centering on the odors of the food the employee was cooking. The tribunal determined that the firm had not "deliberately targeted" the employee over the microwave policy; "however, the applicant argued that she was adversely affected by the enforcement of the policy." The tribunal assessed penalties against the business owner of $36,000 and, when the owner did not have such funds, the tribunal ordered that her home be auctioned to obtain the required compensation. In a burst of surprising sanity, in early 2011, the Ontario Superior Court overruled the human rights tribunal as "fatally flawed." But think for a moment of the personal and financial costs endured by the small business owner—because the case did not end; it was returned to the human rights tribunal for rehearing.

Probably even more odious was the revelation that members of the Ontario Human Rights Commission frequented "hate" Web sites and posted messages under aliases. Clearly trolling for alleged violators of their regulations (or perhaps just scaring up business for the tribunal), this is so obviously an exercise in entrapment as to be awe inspiring in audacity. Although the most egregious case involving planted alias messages was dismissed in September 2009, it was concluded under the semi-legal auspices of the Canadian Human Rights Commission leaving the procedures and policies of the HRC unchanged. Indeed, such exercises force one to wonder just how many of the swastika markings and defacements on Jewish sites can be attributed to those whose rice bowl might be broken should ostensible evidence of "hate" decline. One does recall that the RCMP burned a barn to prevent Quebec separatists from meeting with U.S. Black Panthers.

Federal Repeal Action

In February 2008, then Liberal MP Keith Martin filed a private member's bill (often regarded as a "forlorn hope" from the slim chance that such bills ever become law) to strike subsection 13(1) from the Human Rights

Act. Martin's bill was not well received by then Liberal leader Stéphane Dion, who admitted that he requested that Martin withdraw the bill. Unsurprisingly, the bill did not become law (very few private member efforts do succeed). Nevertheless, there was a steady stream of efforts to delete subsection 13(1), including delegates at the 2009 Conservative Convention voting to delete the item. Ultimately, however, another private member's bill, this time by Tory MP Brian Storseth, was adopted by the government, passed by the House in 2012, and ultimately agreed by the Senate in July 2013. It will come into full effect in July 2014. The consequence is useful for free speech—but it only strikes down federal restrictions on human rights commissions regarding "hate" speech. It leaves provincial regulations in operation.

Perhaps more indicative and ultimately conducive to the federal repeal, one of the founders of the Canadian Civil Liberties Association, Alan Borovoy, when faced with actions by human rights commissions, turned against them. He offered the trenchant criticism, "I was involved in campaigns to create the human rights commissions. It never occurred to any of us that human rights commissions would be used to muzzle the free expression of ideas."

Although these tribunals have restricted free speech since the early 1980s, there are three recent cases of particular note—all of which were undertaken by or engaged provincial human rights tribunals:

Ezra Levant, the *Western Standard*, and Danish Cartoons

Immediately after the 2006 publication in Denmark of a series of cartoons depicting Mohammed, an act forbidden under Islam that prompted enormous global outcry, riots, and violence by Muslims, Ezra Levant published the cartoons in the *Western Standard*. He was the sole publisher in Canada to do so. The cartoons were unarguably newsworthy and provided Canadians with an insight as to what was so infuriating to Muslims. For most (non-Islamic) Canadians, the response was "not much there"—they had seen significantly more offensive cartooning and, if they had thought about it at all, filed it mentally under "free speech." Certainly in the United States, artistic items such as the dung-splattered portrait of Madonna Mary mother of Jesus and the "Piss Christ" representation of a crucifix in a jar of urine were offensive to Christians; however, despite critical comment there was no legal action.

Nevertheless, a Muslim imam, Syed Soharwardy, after thrice failing to convince Calgary police to arrest Levant, brought charges against him in the Alberta Human Rights Commission. The commission accepted the case, and in January 2008, Levant was interrogated by Shirlene McGovern, a commission official. Levant, in a demonstration of the *chutzpah* for which he is noted, videotaped the interview[2] in which he excoriated the commission official with a passionate defense of civil rights and free speech. McGovern appeared neither impressed by Levant's rhetoric nor impressive in her response.

In July 2008, Soharwardy withdrew his complaint, leaving open the potential for renewing it at some further point and denying Levant the full vindication from having the complaint dismissed.

Mark Steyn, *Maclean's*, and *America Alone*

In 2006, Mark Steyn published *America*

Alone, an extended assessment of European demographic and socio-political circumstances that argued Islamic birthrates and political attitudes were substantially altering European traditional culture. It postulated the result would be reduced freedoms and liberties in Europe and embattled circumstances for "Western" values. *Maclean's* subsequently published extracts of these controversial opinions in an essay by Steyn and later printed a wide variety of countervailing opinion and rebuttals from many quarters, including Canadian Islamists. The magazine's responses were deemed insufficient by militant Muslim Mohamed Elmasry and the Canadian Islamic Congress who brought cases against *Maclean's* in the federal-level Canadian Human Rights Commission as well as the Ontario and British Columbia provincial commissions. The complaint charged that Steyn's essay is "flagrantly anti-Muslim." Steyn responded with observations on the questionable qualifications of Elmasry and others to assess human rights in Canada.

Ultimately, the commissions backed away from the case—while getting in some snide cheap shots at Steyn and *Maclean's* in the process. The Ontario HRC in April 2008 refused to proceed, saying it lacked jurisdiction. However, it "strongly condemned" the material and continued by noting that the commission "is mandated to express what it sees as unfair and harmful comment or conduct that may lead to discrimination." The federal HRC dismissed the complaint in June 2008 after its head excoriated *Maclean's* in a public letter to the magazine saying "hateful words sometimes lead to hurtful actions that undermine freedom and have led to unspeakable crimes." Steyn responded to the Ontario HRC by noting that it had found him guilty without a hearing. Finally, in October 2008, the BC Human Rights Tribunal also reluctantly conceded Steyn's and Maclean's innocence and that the material was a matter of opinion. Having won twice, Steyn and *Maclean's* viewed the BC activity with deserved contempt and did not even appear before the BC tribunal.

Rev. Alphonse de Valk, *Catholic Insight*, and Gay Rights

In a less publicly prominent case, *Catholic Insight*, a Canadian Christian magazine emphasizing fidelity to church teaching was charged in February 2007 by Rob Wells of the Gay, Lesbian, and Transgendered Pride Center of Edmonton with promoting "extreme hatred and contempt" against homosexuals. The Canadian Human Rights Commission investigated Wells' complaint. Rev. de Valk, founder and editor of the magazine, responded that the publication presented the teachings of traditional Christianity and in commentary on homosexuality, argued, *inter alia*, against same sex marriage. De Valk claimed that Wells' citations were "isolated and fragmentary…without any context" and dated back more than a dozen years. In his view, Wells' actions were harassment of legitimate religious commentary and teachings. More generally, Catholics contend that homosexuals have openly promoted hatred toward Catholics without being investigated by human rights commissions.

Apparently in August 2008, the commission dropped the complaint against de Valk and *Catholic Insight* and closed the case; de Valk remained responsible for $20,000 in legal expenses. Wells reportedly, however, appealed the dismissal and in August 2008 asked for a new hearing in Edmonton, Alberta; however, there is no record of further action.

Although these illustrations of restricting free speech are more dramatic, lesser but still noteworthy of attempts to criminalize hurt feelings continue ongoing. Hence:

- A case in Saskatchewan in May 2013 wherein a transgender woman was refused permission to try on bridal gowns. The proprietor claimed the individual was a man and that the prospective brides in the shop would be uncomfortable in the presence of a transgender person.
- A case in Saskatchewan in March 2013 by an individual offended by the seasonal "Merry Christmas" messages on programmable bus displays. The plaintiff contends the message discriminates on the basis of religion and creed.
- An Ontario case in November 2012 in which a Muslim barber refused to cut a woman's hair, claiming that his religion prohibited him from touching a woman in this manner.

Perhaps most depressing for free speech advocates was a March 2013 Supreme Court decision upholding a Saskatchewan human rights tribunal's decision that distribution of Christian-based literature critical of homosexuality was hate speech. Judgment is that the decision will restrict speech by religious conservatives. An ancillary, albeit equally invidious element, was that the truth of a statement was not relevant; in the court's words, "Not all truthful statements must be free from restriction."

Self-Censorship

Of all censorship, self-censorship is both the most ubiquitous and the most invidious. In truth, anyone who writes practices self-censorship. The most obvious form, in undisguised dictatorships, reflects the reality that if you write or publish something the government finds offensive, you will be fired, harassed, beaten, jailed, or even killed for your writings. Or if you are a publisher, your facilities will be destroyed or, through various legal mechanisms, you will be prevented from publishing and driven out of business. So you don't write or publish such material. Circumstances make for circumspection.

In more polite societies, self-censorship is often implicit; it is largely unspoken, disguised under "codes" for how particular issues are to be addressed and what words are used to describe race, gender, ethnicity, religion, etc. Upon occasion the editorial rules for individual newspapers are published for the edification or amusement of readers. Such censorship may be dismissed as "political correctness" or "sensitivity," but it is nonetheless real. You don't call a "spade a spade"—let alone label it a "goddamn shovel and beat your subject with it." Thus in one context, self-censorship is simply a function of the Miss Manners school of professional writing. That is, a writer does not put into prose all that she knows. This type of restraint derives from various circumstances. Because that "all" is much more than could be published; it was provided "off the record;" it isn't proved; it isn't relevant—or if you burn your source, the likelihood of getting further access to desirable information evaporates, not just from that source but from others leery about talking to you.

Self-censorship through intimidation and harassment is the obvious objective of the charges brought before the human rights tribunals. The ground rules are so vague that virtually any comment that can be depicted as "likely to expose a person or

a class of persons to hatred or contempt" are actionable. Do you sneer at Toronto Maple Leaf supporters? Suggest that it is unreasonable to "accommodate" wearers of particular types of clothing? Comment to a beer-bellied male that "Fat is not beautiful"? Denounce Mormons as polygamists violating the rights of women? Presumably an offended member of any of these groups could lay a claim against you. And when a particular group of injustice collectors are relentlessly litigious, the prudent person says, "I don't need this; I have a life to live and their lives are devoted to trying to limit mine," and subsequently makes no comment, fair or otherwise, about such individuals. Yes, it's the equivalent of the coward's crouch, but it wards off gratuitous blows.

For Canada and other Western democracies, the most blatant recent illustration of self-censorship has been the extraordinary unwillingness continued through the present to publish or republish the 2006 Danish cartoonist's depictions of Muhammad. Publishers have hidden behind alleged concerns about offending the Canadian Muslim community, arguing that what can be published need not necessarily be published. As noted above, virtually nowhere other than in the *Western Standard (which now only exists online*) did these cartoons appear, despite their obviously newsworthy qualities. Publishers have justified non-publication as responding to community sensitivities, implying that the interests of the majority that would like to see the cartoons are best served by not letting them see the cartoons. The epitome of such commentary was demonstrated by Rabbi Dow Marmur, who argued that free speech could be "a different form of compulsion…" and that media should not publish such material "out of consideration for the feelings of the Muslim minority… allowing sensitivity to and respect for others to come before free expression…If the cartoons offend members of the Muslim community it's a good enough reason to curb our quest for liberty for the sake of harmony." A comparable argument could be made for refusing to publish photographs and descriptions of Holocaust extermination camps—they offend the sensitivities of the now majority of Germans that had no connection with these 70-year-old events.

But more honestly and bluntly, the refusal has been driven by fear: editors and publishers are afraid of attack by Canadian Muslims, either physical assault or juridical charges. They have been intimidated into silence by Muslim threats, which have been made credible by murderous attacks on offending media, e.g., the 2004 killing of Dutch filmmaker Theo van Gogh by a Muslim fanatic, and other continuing assaults in Europe on those involved in the creation and publication of the cartoons. Even a *South Park* cartoon in April 2010 implying that it would reveal Muhammad concealed in a bear suit attracted over-the-top reactions from Islamic protestors (the individual in the bear suit ultimately was revealed as Santa Claus); but the producers of *South Park* adopted a "discretion is the better part of valor" approach in seeking to avoid further controversy (and presumably loss of viewers).

The media outrage directed at the March 2011 Rev. Terry Jones's burnings of the *Quran* was an additional over-the-top exercise in fear clothed in social sensitivity. Jones is a foolish sensation seeker, hoping to draw attention to his marginal ministry by fostering outrage. A smarter tactic would have been to ignore him, regardless of whether he was burning *Qurans*

by the truckload—or perhaps suggesting that those outraged purchase a *Quran* as an illustration of free speech.

Subsequent frenzy was generated in 2012 by a 14-minute film trailer entitled (variously) *The Innocence of Muslims* and promoted but not produced by Rev. Jones. Again, the wildly disproportionate Islamic response to a satirical description generated a "we don't go here" response (along with denunciations of its producer) throughout the Western world and prompted many countries to block the video on YouTube. Reportedly, the film couldn't even find a venue in Toronto. The film was amateurish to the level that it would embarrass a high school video studio course, but that didn't matter to those willing to suppress anything remotely offensive to Muslims.

Comparable "artistic" insult to Christian icons in the United States, for example, the aforementioned crucifix in a beaker of urine ("Piss Christ") or the dung-splattered depiction of the Virgin Mary have been criticized, but have not prompted Christian riots or deadly assaults on the artists—and thus are "safe" albeit recognizably insulting forms of free speech. The unending Islamic cartoon effort to depict Israel and the United States as swastika-wearing ogres, hands dripping with Palestinian blood, have gone virtually without notice, lacking as they do either originality or artistic merit; crude, but not clever. There is no Aislin, Mauldin, or Oliphant in this crowd.

Nevertheless, one might ultimately ask Rabbi Dow Marmur whether staying silent simply allows tyranny to prosper; masters adore the silent slave. Self-censorship is the perfect solution for the tyrant; the slaves fasten their own chains and polish them with rationalizations.

7 LANGUAGE AND DISCORD

"To know another language is to have a second soul."
(Folk adage attributed to Charlemagne)

Much to their detriment, Canadians have internalized bilingualism—two official languages—as one of their defining characteristics. Along with "single tier" health care, Coach's Corner on Hockey Night, and a climate that the wise decided was better experienced from much further south, the legal mandate of two official languages for public use has been enshrined as a national totem.

Americans observe the results and offer a passionate prayer that the Canadian example does not come nigh us.

The results for Canada are akin to a bear riding a bicycle. It is not that the bear rides badly; nobody ever expects a bicycling bear to be a *Tour de Canada*-level cyclist even if its performance were chemically enhanced. Rather the question is why would anyone ask a bear to bicycle (or why would any self-respecting bear permit itself to be so imposed upon)?

And so it is for bilingualism. What is individually a skill that can bring great personal pleasure and satisfaction, widen intellectual horizons, offer profitable economic opportunities, and, *inter alia*, demonstrate mastery of a difficult challenge has become a virtually obligatory political and federal bureaucratic requirement for professional success. What should be a personal or economic choice has become a restrictive and limiting "or else" level demand to prove oneself to be a good Canadian.

To be sure, one can appreciate intellectually the political and social labyrinth leading to Canadian adoption of two official languages. Like so much of Canadian history, it has been driven by the fear of the French fact. (See Chapter 10 on U.S.-Quebec attitudes.) The founding French settlers in Quebec were sufficiently heavy on the ground and the conquering British initially not sufficient

in numbers—or sufficiently draconian in their political impetus—to exercise the level of ethnic cleansing in Quebec done, for example, for Acadia in the Maritime Provinces. Instead, the British essentially seized political and economic control of Quebec, slapped an imposed English veneer on the region while expanding and dominating elsewhere across the continent. They were largely indifferent to the Quebec francophone population and regarded them as irrelevant, "priest ridden," hewers-of-wood and drawers-of-water. Those francophones who were upwardly mobile learned to "speak white."

It has never been possible for Canada to be a "melting pot" at the temperature level of the United States demographic construct. If French Quebeckers were regarded as one of two "founding nations," then asking them to submerge voluntarily into English language and culture was not a politically viable approach. Nor did they volunteer to do so. The consequence of this reality, subsequent to Quebec's "Quiet Revolution" in the 1960s and now into the twenty-first century, has been the grim appraisal and apprehension that unless Quebec is appropriately appeased, it will declare independence. For their part, Quebeckers are intimately familiar with their leverage and the potential for "profitable federalism" and employ "knife at the throat" political blackmail to euchre the Rest of Canada (ROC) into providing disproportionate financial and political benefits. Quebeckers smile; the ROC frequently fumes.

The consequences of the May 2011 federal election, which provided a governing federal majority without requiring Quebec MPs, are still being played out. The ostensibly "federalist" NDP now has more Quebec MPs (59) than the Bloc Québécois ever held and appears to have taken up the Bloc's cudgel in demanding "more" for Quebec.

However, Canadians, too squeamish to preserve their country by force of arms, fear that calling Quebec's bluff might turn out not to be a bluff—and Canada would be divided into at least two countries. Anglophone Canada is not willing to make the "let the erring sister go" gamble; that is, if Quebec does not appreciate the benefits of Canada, regardless of what language is being spoken, well, "Don't let the door hit you on the way out." At least it is not yet willing to throw those cards on the table. Hence, there is a national policy legislating two official languages and extensive, expensive programs to implement the policy.

Consequently, instead of leaving the mastery of French to personal or economic choice among anglophones and the mastery of English to likewise inspired francophones, Canada has chosen to inconvenience the 80 percent of its population that are not native speakers of French. It imposes the requirement for French facility explicitly on aspiring federal workers who wish to be full participants in Canadian federal bureaucratic careers and implicitly on citizens who seek success in federal politics. And it regularly floats new trial balloons (obligatory bilingualism for Supreme Court justices and "secret shoppers" in Ottawa) to cram the French fact further down the throats of the non-Quebeckers.

The amount of time, money, and personal anguish expended by those native anglophones and allophones (individuals whose native language is neither English nor French) who have pretzeled themselves into marginal French competence is inspiring—that is, as an example to avoid. Likewise, Canada's losses in terms of attracting the political and bureaucratic competence of those who simply refuse to "play the game" or for whom

language is an obstacle they care not to address cannot be calculated but cannot be trivial. Bluntly, competent Canadians can do very well economically outside of the significantly lower public service salaries and the hassles of bilingual angst therein.

It would be as if, in the United States, one were required to play baseball and hockey to be a federal politician or bureaucrat. While one can play baseball anywhere in the United States, hockey is essentially restricted to a limited section of the country in the North and Northeast or to rich suburban areas not in the Snowbelt that can build hockey rinks at considerable expense. There is not the slightest natural reason why a child growing up in the U.S. South or Southwest would desire to play hockey—it is a totally artificial sport for the region, requiring special conditions to play at considerable expense. So, obviously, those individuals living and growing up in the North and Northeast would have natural advantages over those in the South and Southwest. Just as creating artificial, ice box conditions to play hockey in Florida, one must create artificial conditions to learn French in British Columbia.

It is the same reason why the United States resists reflexively pressures to, for example, legislate Spanish as an "official language." If anything, the contrary attitude is dominant, and the impetus remains unrequited to amend the Constitution to identify English as the sole U.S. official language. For the United States, facility in Spanish, particularly for areas with substantial numbers of Hispanic voters, has become a politically useful tool. National politicians such as George W. Bush and Al Gore demonstrated rudimentary command of Spanish on the campaign trail; however, it was viewed as mildly polite rather than expected, let alone obligatory. John Kerry's reported fluency in spoken French was derisively dismissed during the 2004 presidential campaign, particularly as French hostility to U.S. foreign policy was the then-defining element of our bilateral relationship.

Learning a Second Language

There is one easy way to learn a second language: be born with it. A child is raised under circumstances where one language is spoken in the home and a second spoken "on the street" and in schools, etc. Indeed, true accent-less facility in speaking a foreign language is virtually impossible after age 10; hence Henry Kissinger, whose personal intelligence is unquestioned, speaks with a pronounced German accent, having come to the United States as a teenager.

Thus in Canada, individuals with the easy natural mastery of both official languages have almost invariably been Quebeckers. These are individuals such as Brian Mulroney, Pierre Trudeau, Jean Charest, and a legion of others, who expanded upon the opportunity of speaking one language with parents and siblings at home and the other at school and with playground friends to build a comprehensive mastery in speaking both languages. That sociological circumstance, combined with natural linguistic facility—as not everyone can learn a second language regardless of opportunity—provided defining political advantages.

To be sure, there are those who are "gifted for languages." One recalls Sir Richard Francis Burton, nineteenth-century British explorer and adventurer, whose skill in quickly learning obtuse Middle Eastern and South Asian languages was legendary. He was reported

to have visited Mecca, speaking Arabic with sufficient facility—when death would have been the penalty for discovery—to pass for a native speaker. There are few among us who would qualify at the Richard Burton level. Others are gifted at the level of the "three letter athlete" in high school sports or the "natural" who can pick up a football for the first time and throw a 50-yard spiral pass or graduate in their mature years from high intensity contact (or collision) sports to play "scratch" golf after limited instruction.

But it is incorrect to suggest that having learned one "second language," it is easier to pick up another "second language." It is overreaching to suggest (per Graham Fraser's, *Sorry, I Don't Speak French*) that French is the gateway to another language. As well as natural ability in language (which incidentally is not connected with intelligence), learning a third language depends on the nature of the third language. Is it also a "romance" Latin-based language, such as Spanish or Italian, or one with no English connections (Russian), and at what age you attempt to learn it? Is it "tonal" wherein a given word has different meanings depending on the tone with which it is pronounced (Chinese, Vietnamese, and Thai)? Or is it structured in a manner with multiple forms of politeness (Japanese) that make mastery particularly difficult for a Westerner? Does it have a different written form (Arabic, Chinese, and Russian) that makes reading it a matter of memory rather than phonetic pronunciation? Finally, the ability to learn a language, even for those with substantial natural talent, declines with age. And for some, it will always be the equivalent of chipping stone with your tongue.

Additionally, there is an apparently natural reluctance to speak a second language. Children do not want to be "different" in this regard. Repeatedly, the children of U.S. diplomats return to the United States speaking perfect another language perfectly—and then "forget" it. Nor does the language return upon later exposure to it in formal educational circumstances as is often casually assumed. One child learned Russian to the level of reading *War and Peace*; upon leaving Russia, the child mastered Swedish. However, upon arriving in the United States, both of these languages were completely forgotten during the course of mastering English, as well as retaining Chinese. Intelligence was irrelevant; the child obtained a PhD—and then became a diplomat. In another example, a child's first language was French; a "nanny" accompanied the family to the United States and spoke to the child only in French, while her parents spoke to her in French and English. Upon the departure of the nanny, the family hired a friend of the nanny to continue French conversation; however, the child adamantly refused to speak French, and eventually, the family declined to force the issue further. Although the child subsequently had French instruction in public schools, ultimately at university, it was necessary to secure a certificate to the effect that the student had a psychological block against speaking the language to obtain exemption from the university requirement for spoken as well as written facility in a foreign language. Again, intelligence was not a factor; the child finished first in the university's engineering school with a dual degree in finance.

Slightly in contrast, another immigrant child completely refused to speak the native family language and wanted to speak only English. The parental response was draconian: speak our language or you don't eat. The child was stubborn—but hungry; the parents were

adamant. After three days, the child acceded, spoke the parents' language at home, English outside, and was fed.

Moreover, while a reasonably intelligent individual can learn to read a second language through attentive study, speaking the language is a very different requirement and writing it with grammatical accuracy, let alone with any degree of facility, is still more difficult. To demonstrate this point, there are only a handful of publicly prominent Canadians who can write in both English and French with sufficient flair to be interesting (and publishable) in both languages. These include Graham Fraser, the current Canadian Commissioner of Official Languages and high profile, much-renowned journalists such as Lysiane Gagnon, Chantal Hébert, William Johnson, and Jean-Francois Lisée. With these individuals among the few representatives demonstrating real, "switch hitting" excellence in a profession in which being adept in both languages would be professionally and financially rewarding, one can be sure that official government prose is even more pedestrian than the bureaucratic norm. Or what is more likely, a native English speaker has his English-language text officially translated or comprehensively edited (and vice versa for a native French speaker) for anything more important than an interoffice memo.

Bears on Bikes

On the Canadian political level, one can view all manner of "players." The 1993 Tory leadership convention provides a classic, albeit now somewhat dated, illustration. One observer recalled there was a range of capability and fluency among the contenders appearing in Montreal. Among them, Jean Charest was fluently bilingual, reflecting the advantage of growing to maturity in a bilingual Quebec household. Kim Campbell, who was advertised as fluently bilingual, was not; instead, she was clearly an intensely tutored individual with good vocabulary, accent, and grammar, but lacked the comprehension and easy appreciation of questions put to her in French. Most impressive was Jim Edwards, an Alberta MP who probably had spent virtually all of his life as a unilingual anglophone. Edwards, however, had sufficient linguistic talent to use what French he knew in "keep it simple, stupid" constructions to communicate effectively with the French-speaking audience. Finally there was a unilingual anglophone who was a de facto vanity candidate known barely to his family; he scarcely bothered to say *"bonjour"* as his French was nonexistent.

But 15 and 19 years later, political circumstances had changed considerably.

For the 2008 federal election, one could juxtapose two highly intelligent and motivated political figures: Prime Minister Stephen Harper and Liberal Party Leader Stéphane Dion. Of the two, Harper was close to being a unilingual anglophone in origin, with peripheral French from standard academic study. However, through intense "immersion" and steady effort, he had developed a solid technical mastery if less than real fluency in French. Nevertheless, he said what he wished to communicate and was understood accurately by French-speaking audiences. In contrast, Dion, before entering politics, was an internationally known French scholar and academic educated in France; however, his English suffered from being spoken by a university professor who appeared to believe his audience consisted of students who must master its content for the forthcoming exam. It was convoluted and more than occasionally verged on the impenetrable for the average listener.

Reportedly, his French was also opaque.

And in 2011 the major leaders, again Prime Minister Harper but now contending with new Liberal leader Michael Ignatieff and NDP leader Jack Layton, had bear-on-bicycle French. The most that can be said is that Ignatieff's French may have been better than was Dion's English, but probably not better than Harper's French. Moreover, it suffered from being the cultured, non-Canadian French acquired as a diplomat's child. Layton's French was derided as "used car salesman" level, but it was Quebec-style from a Montreal childhood and hence engaging to Quebeckers. Harper makes a ritual of starting official public statements in French; this is a nod to Quebec sensitivities as well as part of the constant Tory campaign to gain support in the province. (Perhaps he assumes that Canadian English speakers are not listening anyway and tune it out.)

But all of these bears can at least stay vertical—and the opportunity cost for this marginal capability is largely unexamined.

Fallen Bears

To some extent, determining those who never played the game because their skill set was too weak even to get to the field is akin to proving a negative. However, there are individuals who were personally brilliant but ended by being effectively excluded from politics at the highest level due to linguistic weakness. Most noteworthy of these is senior Tory politician John Crosbie, who served five years (2008-13) as lieutenant-governor of Newfoundland. Crosbie famously responded to a charge that he didn't speak French by noting that he didn't speak Chinese either but believed that he could communicate his positions. This riposte was regarded as politically insensitive. Equally acerbic was his 1983 comment, "It is better to be sincere in one language than to be a twit in two," (referring to his own unilingualism and Pierre Trudeau's bilingualism). Again, it was widely regarded as partisan rather than prescient.

Almost as ineffectual in French was Reform Canadian Alliance leader Preston Manning. A thoughtful, highly intelligent systems analyst by education, Manning, as an Albertan with no need to learn French as a child, did not. His efforts to develop even marginal competence in French in later life as the Reform Party leader were painful, costing him even the minor chance of garnering Quebec support and providing those less thoughtful, but more linguistically gifted, with easy points of criticism. That it was akin to laughing at a cripple was of no matter to the critics; politics is not quite a blood sport in Canada, but it might as well be.

Another figure for fun in Canadian political life has been Joe Clark. Clark grew far beyond his "Joe Who?" initial reputation of having come from nowhere to win the Tory party leadership in 1976 and then (briefly) became the youngest Canadian prime minister in 1979-80. Clark made monumental efforts to learn French; however, only his closest supporters ever regarded his facility as moving beyond the pedestrian. These efforts were directed politically at improving the Tory brand in Quebec, which was at the time totally dominated by the Liberals' fluently bilingual leader Pierre Trudeau. The results in the 1979 election were two of 75 seats in Quebec for the Tories (and one in the 1980 election). Clark is famously quoted as saying, "…when I went into politics I had to choose between learning economics and learning French. And I chose French." (See Peter Brimelow, *The Patriot Game*.) Considering the poor economic

decisions he made in constructing his 1979 budget, which contributed to the collapse of his minority government, and the unimpressive electoral results in Quebec in both the 1979 and 1980 elections, perhaps he should have studied economics. Or to put it another way, would Canada have been better off if blunt John Crosbie rather than charisma-challenged Joe Clark had been prime minister?

And Bears Who Never Bothered to Ride—and Don't Bother Now

It is perhaps as irrelevant to note that Canada's founding father Sir John A. MacDonald was a unilingual anglophone as it would be to note that George Washington would make an unlikely source of 30-second sound bites on a twenty-first century campaign trail. Or that Washington and Jefferson should be retrospectively disqualified from Mount Rushmore greatness because they owned slaves. By definition, times change. Nevertheless, the iconic William Lyon Mackenzie King and Lester Pearson had insignificant French capability, and the much maligned John Diefenbaker spoke French that "dared not speak its name" so far as being taken out of the linguistic closet was concerned. And while Canadians of one partisan persuasion or another might say that it would have been just as pleasant never to have had one or another of these prime ministers inflicted on them, they were prominent in Canadian and world history well within living memory. Would Canada have been better off without them had the implicit requirement for speaking French been imposed at the time when they were politically prominent?

A modern equivalent of some earlier French-challenged Canadian politicians is Belinda Stronach (MP 2004-08), the Tory/Liberal changeling politician more noted for her social activity and "blond ambition" sustained by massive family wealth than by serious political prospects. Although buoyed by massive funding and rock-star level media attention to her personal characteristics, wardrobe, boy toys, etc., she appeared more to be a distracting national amusement than a political figure with intellectual credentials. Indeed, one illustration of her lack of serious thought to a political career during her young adulthood was her failure to obtain any significant fluency in French despite an upper class Ontario education and multiple opportunities coincident with such an atmosphere. Prior to her withdrawal from Canadian politics—to return to the family business where money does the talking in any language of its choice—she gained no notable competence in French.

Love and Money

There are of course two other incentives to learning a language: love and money.

The number of young men and women who have found personal attraction a stimulus for learning to communicate in the language of the other is legion. One of the classic methods for learning a foreign language is to have a "sleeping" or "pillow" dictionary that enhanced linguistic facility as well as providing other attractions. It remains more effective than the best of Berlitz or Rosetta Stone audio tapes.

Then there is money, a perhaps even more reliable stimulus—or at least one not as subject to the temporary vagaries of passion. Learning a foreign language then becomes akin to learning a specific skill, e.g., accounting or bookkeeping, operating a vehicle, keyboarding and mastering a

computer program, or constructing a legal brief. These are skills that one expects will have lifetime utility and will offer extended returns for the immediate commitment or investment in time and money required to master the skill. Granted, they may not meet the high end of business fluency, given that the complexities of much of international business and finance require carefully agreed contracts—in two or more languages—attested to by professional translators. Providing coverage for those events falls to skilled simultaneous interpreters and translators, who are much sought after for international organizations or business transactions because they assure that the rough-and-ready linguistic semi-competence of those involved has professional support that prevents expensive future misunderstandings.

Much more common, of course, is the casual familiarity with a foreign language that one might develop directly "on the job" with incentives for expertise. In this regard, one sees signs in commercial establishments noting, "XYZ Spoken"—with the presumption of a financial incentive for the employee demonstrating that capability or at least a greater likelihood that an individual with this language skill would be hired. Illustrations of such incentive-response are richly available. One favorite is the young Hispanic male in an Asian grocery store, who knew the Mandarin, Cantonese, and Vietnamese names for the full range of esoteric Asian produce to respond to the needs of the store's assorted clientele. He was not ordered by regulation from the federal, state, or community government to master this information; he did so because it was economically beneficial for him personally. On a larger scale, the city of Burlington, Vermont, during the summer of 2011 announced a campaign to encourage the use of French—to compete with Plattsburgh, New York, for Quebec tourists. Or, as a Canadian example, if you want a job in the Alberta oil fields, being a unilingual francophone won't get you very far; indeed west of the Ontario border is virtually barren land for French.

Given all these options, unless the Canadian government plans to assign each French speaker four to five English speakers to try the "love" path for language learning, it might be better to focus on economic incentives.

The Canadian Example

Canada has taken its tortured linguistic path along two, essentially parallel tracks: the civil service and the public education routes. The legal basis is *The Official Languages Act* of 1969; in 2005, it was modified so the federal government is legally required to take "positive measures" to enhance English and French linguistic minorities and assist their development. Since 2001, an appointed minister for official languages has served as a cabinet member to provide further political weight to the effort to promote bilingualism. The 2005 revision of the act to promote "positive measures" has, the Commissioner of Official Languages noted in his 2006-07 annual report, encountered "a certain skepticism within official language communities." This observation indicated that "positive measures" is masterfully vague with an "all things to all people" intimation. Four additional years of working with the revised act appeared to generate little beyond further studies and suggestions that more money was needed, with the commissioner noting in his 2009-10 report that "federal institutions continue to see linguistic duality as a burden rather than a value…" and "the series of

obligations have yet to be transformed into values that are cherished by the country..." In the 2012-13 report, the commissioner was more optimistic, but noted that even with the *Official Languages Act* in its fifth decade, "it is still a challenge for some to recognize linguistic duality as a Canadian value and as a key element in Canada's identity." And, of course, more money is needed. Whenever has an organization declared it needed less money?

This structure is complemented by five year plans, which smack of twentieth-century socialist planning. The initial five year plan starting in 2003 *(Action Plan for Official Languages)* devoted $36.1 million for 2003-06 and another $12.4 million for 2006-07. It had a wide range of objectives, including inter alia improving access to health care in the language of the minority; access to justice in both official languages; education in the language of the minority; and increasing bilingualism among Canadians age 15 to19 years old from 24 percent to 50 percent. Not to belabor the point, but Canadian bilingualism in that age range nowhere near approaches such an objective, and indeed the 2006 census recorded that bilingualism had dropped approximately 2 percent to 22.3 percent since the 2001 census. Another federal survey in early 2012 stated that at 17 percent, Canadians were no more bilingual than as recorded in the 1921 census—also 17 percent. And the 2011 census recorded a further decline in bilingualism (the first in 40 years) from 17.7 percent in 2001 to 17.5 percent. At a minimum, the previously steady march to bilingualism has stalled as a feature of general domestic commitment.

Nevertheless, the next five-year *Roadmap for Canada's Linguistic Duality (2008-2013)* proceeded undaunted. While federal support for language instruction is not a huge item in the national budget, it is far from trivial. This five-year effort was reasonably well-funded with a commitment of $1.1 billion designed to fund initiatives, projects, and networks of key players. The stated purpose was to "support the vitality of official language communities and promote English and French second-language learning…" In 2010 the commissioner admitted to being "disappointed" that *Roadmap* programs "were slow to start or are still not off the ground." However, the third "five-year plan," the 2013-2018 *Roadma*p projected for $1.1 billion, kicked off in March 2013 with characteristic official optimism planning to focus on education, immigration, and community support. It claimed that "32 initiatives" were effectively implemented in the previous *Roadmap*. It projects the triumph of hope over experience.

For 2005-06, expenditures for French and English language education were $281 million (Canadian); additional provincial expenditures reportedly totaled $639 million. An October 2012 figure suggested that Ottawa spends $1.5 billion annually and the provinces $900 million on official bilingualism. Another Fraser Institute estimate in January 2012 concluded that bilingual spending totaled $2.4 billion ($1.5 billion by the federal government and provinces adding $900 million). One can argue whether accountability is perfect or whether there are "immersion basketball courts" being financed by some of this cash. On the other hand, the review of the Action Plan by the former New Brunswick premier completed in early 2008—which *inter alia* recommended $1 billion in financing for the next Action Plan—sank like a stone. The concurrent recommendation for more attention to "arts

and culture" would not have engaged the Conservative government, and the Great Recession put paid to this semi-grandiose thinking ("multi-billion dollar boondoggle" was one unaffectionate comment).

Progress in assuring bilingual capability within the public service can be a "how full or empty is the glass" assessment. Eighty percent of the Canadian population in one CROP/ Radio-Canada survey wanted senior public servants to be bilingual. However, judgments from the commissioner suggest evasive minimalism throughout the public service. The 2006-07 assessment noted that in 20 years, the percentage of bilingual positions occupied by bilingual military personnel increased only from 37 percent to 47 percent. There is no comparable statistic in the 2011-12 report. However, one anonymous official was quoted as saying, "I just got my C level [highest language proficiency level required for senior management]—now I'll never have to speak French again!" Somehow, that was not supposed to be the objective of the requirement.

And, indeed, in private conversation in mid-2013, a retired senior Canadian diplomat said bluntly that "bilingualism has failed." His specific reference was to the Canadian diplomatic service; his solution was either (a) begin comprehensive French education in elementary school with no exceptions; or (b) require tested bilingual expertise as a condition for entry into the foreign service or immediate dismissal if the individual failed to learn French in a specific timeframe. Presumably the judgment and remedy would apply to the Canadian public service writ large.

On the "report card" 2006-07 Annual Report by the Office of the Commissioner of Official Languages, five of the 37 rated agencies ranked as "poor," including the Canadian Forces and the RCMP. The "report card" for 2008-09 covered only 15 agencies—politely excluding Canadian Forces but still giving RCMP only a "C" (along with three other federal agencies). The 2011-2012 annual report did not indulge in naming and shaming, noting rather generalized results of "audits" of various federal agencies, including Passport Canada, Air Canada, Parks Canada, and Industry Canada. Noteworthy was critique of the Canadian Army website which had "many shortcomings" in the balance of English and French prompting a "huge" effort to rectify the imbalance.

Perhaps one can set aside the costs of running the commission. Those critical of the $10 million reportedly devoted to the Office of the Commissioner of Official Languages bring to mind the definition of a cynic as "one who knows the price of everything and the value of nothing." One can view the substantial sums spent on Canada Day fireworks or other elements representing national unity—from Expo 67 to the Winter Olympic Games in 2010—and pose the same question about expense.

The real question should not be expense, but results. And in that regard, there are serious questions, both individually and for national unity.

On the purely bureaucratic front, the need for facility in French results in endless struggle by those marginally gifted in language to obtain certification at the appropriate level—a level that once obtained almost immediately erodes. It is invariable in any bureaucratic structure, public or private, that employees either (a) operate primarily in the language of the majority of those employed; or (b) operate primarily in the language of their supervisor.

To attempt to lay some administrative "discrimination" charge against a supervisor, for other than the most gross misconduct in language management is not professionally productive.

Nor does there appear to be the linguistic equivalent of a "handicapped" exemption within the bureaucracy. That is, an exemption for the recognized psychological inability to speak a second language with any facility, regardless of the overall intelligence of the individual. Such an impediment is not "visible minority" obvious or as physically blatant as being confined to a wheelchair or having a guide dog, but it is still a handicap and one that goes unrecognized within the linguistic bureaucratic structure.

Thus, despite the high level of support and resources that are available, the process is failing—if not definitively "a failure." After more than 40 years of official effort and tens of billions in public expenditure, it is nowhere near to the level of societal accomplishment that was hoped at inception. The bottom lines are stark: of 7 million Canadians for whom French is their first language, 4 million speak no English. Despite "it's a good thing" responses to polling (in 2010 nearly 60 percent favored bilingualism; nearly half believed it is a unifying force for), in a 2006 study, 54 percent of young people admitted to little or no contact with other official language group members and 68 percent have never participated in an event organized by a linguistic minority group in their region. According to the 2006 census, 23 percent of Canadian teens between15 and 19 years old (the age when bilingualism peaks following extended schooling) were bilingual—a reduction from 24 percent in 2001. Outside Quebec that percentage reportedly fell from 16.3 to 13 percent, a figure that also reflects the demographic reality that outside Quebec, only 4 percent of the population is francophone. Thus there was no hope of meeting the official objective under the 2003 Action Plan of having half of all high school graduates bilingual by 2013. The 2011 census confirmed dismal projections. Although more total Canadians can speak both languages, the percentage of bilingualism across Canada fell from 17.7 percent to 17.5 percent. Perhaps even more important, outside Quebec the number of public elementary and high school students learning French dropped 24 percent—from 1.8 to 1.4 million. The "seed corn" for general, rather than elite, bilingualism is not being planted.

Nor has the effort resulted in a greater availability of French speakers for the service industry. According to Graham Fraser in a 2008 commentary, there were 300,000 students in immersion training, but organizations such as Air Canada had difficulty hiring bilingual service personnel. The impression is that French immersion is an elite sport akin to taking "advanced placement" courses indulged in by those headed to university. And, unfortunately, the economic benefits for bilingualism appear marginal. A 2010 study indicated that it was worth 3.8 percent salary increase for Anglophone males working outside Quebec exclusively in English (5.4 percent if working in both languages).

Some Grim Examples

To offer some shake-your-head-in-despair examples of the bitter, expensive, questionable ends of good intentions, consider the following:

- In July 2011, a Yukon court ordered the government to build a $15 million high school for 41 French-speaking students;

- That same month, a federal court judge ordered Air Canada to pay $12,000 to a couple because they did not get service in French (and were given a Sprite when they requested a 7Up);

- In August 2011, "secret shoppers" financed by the official languages commissioner at a cost of $40,000 visited private Ottawa stores to determine whether unilingual francophones could obtain service. That such "tongue troopers" were playing "gotcha games" with private establishments having no obligation to provide bilingual service proved repellent. Even the Heritage minister had to quickly distance the government ("It is not the federal government's business to police the language in which private businesses communicate with their customers"). But, nevertheless, the 2011-12 commission report discussed the availability of French service in Ottawa restaurants at length.

Nor does there appear to be any limit to politicized "gotcha games" over bilingualism. Michael Ferguson, an exceptionally well-qualified nominee for the federal auditor general position, is de facto a unilingual anglophone. His professional status as New Brunswick's comptroller, auditor general, and deputy finance minister were irrelevant so far as the NDP and Liberal Party opposition were concerned. So in November 2011, Canadians had the spectacle of a "groveling bear" attempting to plead that he would be diligent in efforts to learn French and appreciated the importance of being able to communicate in both official languages. It was both petty and unedifying, but instructive for anyone who considers federal service.

Thus, it is mildly amusing to recall a pre-politically correct rant by Stephen Harper in 2001 denouncing the costs and failures of the federal bilingualism program as "the god that failed…it has led to no fairness, produced no unity, and cost Canadian taxpayers millions." Perhaps attempting to illustrate this point, Harper's sixth press attaché was effectively *sans* French; however, he lasted seven months before being replaced in April 2012 by a bilingual officer as implicit recognition that one must placate the media in both official languages.

Quebec

To be sure, the "Quebec" issue comes in many dimensions; it absorbs disproportionate amounts of Canadian socio-political energy. At times it appears as if every issue becomes a language issue: indeed, as if the *only* "national" issue is language. And language—the viability of the French language—remains key to the culture of Quebec.

But by making an immense political effort to transform the rest of Canada into a collegial "French friendly" zone, Canadians have missed the point. Quebeckers really don't care about speaking French in the ROC; the ROC is a foreign country, whether or not Jean Chrétien declared mountains in western Canada to be "his Rockies." Quebeckers have more than enough scenery of their own and, as a tourist, you "own" the scenery from the Himalayas to the Grand Canyon as long as you have a camera or video recorder. And if the "locals" want your patronage, they'll speak your language or be sufficiently accommodating with gestures or pantomime to get your money.

Canadians who have not traveled in Quebec outside of cosmopolitan Montreal miss the unilingual francophone reality; the rest of Quebec can truly believe that it is a distinct society and a "nation" with no Canada

connection or content. What matters to Quebeckers is definitive control over language in Quebec. That is, they wish to be able to make the rules and enforce the rules to assure the total dominance of French within Quebec.

It is not that Quebec francophones want to make the province an English-free zone or to drive out the anglophone remnant with Canadian-style ethnic cleansing. No reputable Péquiste will argue against the utility of English—or Spanish—fluency in developing the Quebec economy and technology for the twenty-first century global environment. However, they wish to have a very tame, domesticated English—a technical tool, such as "computer literacy," deliberately learned as a second language under societal control and circumstances clearly limited and devised by the francophone political establishment and implemented by the educational system. That means *inter alia* intense and continuing restrictions on which—and whose—children are permitted to receive primary or secondary public education in English.

Intellectually, that position is defensible—for an independent country. One recalls that Libya, after overthrowing its monarchy in 1969, eliminated all street signs and other non-Arabic writing. There is no indication that post-Gadaffi Libya will reverse that action. And trying to traverse the Moscow metro without some comprehension of the Cyrillic alphabet can be daunting. Countries often have one official language and one official religion. And, indeed, if an individual wishes to live for an extended period in Quebec, one should anticipate working and living in a French-speaking environment. Mastery of French, particularly for an immigrant, should be a primary objective; any other language should be secondary. "Success" in Quebec is spelled "*succès*."

In this regard, Quebec provincial authority appears increasingly successful. Quebec's control over immigration has facilitated this increase as well as the requirement that immigrant children to attend French schools. Reportedly, between 1996 and 2006, immigration increased 25 percent and, for the first time, more newcomers to Quebec were speaking French rather than English as their "default language." The trend increased between 2006 and 2011 with 58.8 percent of new immigrants speaking French as their first official language. Although individuals seeking ever-greater limitations on English speakers can cherry pick statistics to note the percentage of French speakers declined in Montreal, to unbiased observers the strength of the French language in the province appears undiminished.

Nevertheless, Canada clearly fails to protect the English-speaking minority in Quebec. The limitations on English epitomized in "Bill 101" are prima facia restrictions on the human rights of English speakers. It would be an obvious human rights abuse if practiced in "Forgottenstan" but in Canada, it is politically incorrect to be critical of francophones for their restrictions on English speakers. The squawks by Quebec English speakers are simply ignored. The levels of hostility and harassment directed at English speakers and the English language are persistent and frequently verge on the risible. The Office de la Langue Française (OLF) is staffed with oafish officials who frequently appear to be channeling Peter Sellers' "Inspector Clouseau" in approaching their activities ostensibly to protect the French language in Quebec: measuring the size of English letters to assure that they are half the size of French; prohibiting the import of matzah for Jewish holidays that lacked French on its

labels; prosecuting small shop owners for hiring unilingual Anglophones (using "gotcha" techniques that equated with entrapment); declaring that vintage advertisements for beers in an Irish pub are illegal.

There is a list of comparable petty incidents that could fill pages, but they simply qualify as silly to an outside observer. That the put-upon anglophones demonstrate their personal contempt for OLF officials hardly helps once the spider webs of official regulation fall upon them. There are accusations, charges, court cases, fines, and more legal expenses—nothing spectacular, but simply the drip-drip-drip of corrosive pressure on even the most stubborn English speakers. The francophone expectation is that these recalcitrant types will die, move, or sell their businesses—tomorrow if not today.

Equally absurd to other observers are circumstances such as the ritualized frenzy over the occasional appointment of an anglophone to a senior position in the *Caisse de Dépôt*—and the media-bashing for selecting a unilingual anglophone as the interim manager of the Montreal Canadiens (*Les Canadiens de Montréal*) in 2011. One suspected immediately that his status would be very temporary and trumpeted by his failure to manage the *Canadiens* to victories rather than his inability to explain their defeats in French. But with an 18-23, fifth place, non-playoff result, he was immediately replaced by a francophone who led them to first place in their division in the 2012-13 season.

You don't have to be up to your hips in a Montreal winter snowstorm to feel the chill.

Although it is hardly official policy, a substantial percentage of the francophone population would be delighted if the anglophone remnants in the province just left quietly. To them the Anglos will always be "Westmont Rhodesians"—rich and politically and socially privileged. Resentment and malice last more than a generation for a population whose automobile license plate incorporates the motto *(Je me souviens*—"I remember"). And what do Quebeckers "remember?" You can be sure, it is not that 250 years of economic progress and development in the province was primarily the consequence of English investment and entrepreneurial energy in a rule-of-law abiding democracy, but rather "conquest" in 1759. An analogy might be the attitude toward the Japanese language in Taiwan (ruled by Tokyo from 1894 to 1945) and Korea (1910-45). Substantial numbers of second and third tier Taiwanese and Koreans learned Japanese; however, post-1945 their interest in speaking it was minimal. But in a democracy, the majority rules, and when the rights of the English minority are not vigorously protected by the federal government in Ottawa, the minority can "like it or lump it"—or leave.

More directly, the PQ government proposes to modify further Bill 101 incorporating the basis for language rules and restrictions in Quebec with a "Bill 14." In its mid-2013 form, wherein it has passed the "second reading" in the National Assembly, it would, among other provisions, extend French language requirements to smaller businesses, revoke the bilingual status of municipalities when the English population drops below 50 percent, and discourage French students from attending English language community colleges. The issue will return when the National Assembly resumes.

According to the 2011 census, Quebec native English speakers number 600,000 (down

100,000 since 2006), and constitute 7.7 percent of the population. With desperate efforts, remaining anglophones have adopted bilingualism. Reportedly, 60 percent of Anglophones are bilingual and the figure rises to 80 percent for those between 18 and 34.

However, of the approximately 57,000 people employed in public service jobs in Quebec in 2002, Anglos held only 0.7 percent of those posts (and that was a decline from the previous figure of 0.83 percent. Reportedly, Anglos represent approximately 25 percent of the potential workforce in the province. And supposedly there are obligatory provisions in the Quebec Charter of Rights for employment equity programs as well as hiring quotas. One can suppose that without such incentives there would be absolutely no Anglos in the Quebec public service.

Looking at their role in Quebec politics, there were three native English speakers in the Liberal provincial cabinet of 2011, while in the 2008 cabinet, a visible minority immigrant was the only native English speaker. In the 2013 Péquiste government, however, there was not a single native English speaker—and likely only one (Jean-François Lisée) who would qualify as fluently bilingual. This progression suggests the limitations of the English linguistic group in future provincial governments. A 2005 public opinion poll demonstrated that only 40 percent of Quebeckers would find an anglophone premier acceptable. Clearly there are limits to "reasonable accommodation."

The point could not be clearer. If an anglophone has a special technical skill or a defined corporate position—and wants to live in Montreal, essentially working in his or her second language—fine. The city can be comfortable in its metropolitan amenities. But such an individual should never expect to rise to a senior position in a francophone-owned corporation or be one of the "makers" in Quebec political life. Indeed, even native francophones not born or raised in Quebec City perceive social or political prejudice. Quebec is a niche market for Anglos with narrowly defined parameters—akin to the limited societal sector carved out for foreigners in Japan.

No fools they: the anglophones have indeed departed in significant numbers since the first Parti Québécois government in 1976; these departures were accentuated by the traumas associated with separation referendums in 1985 and 1995. This exodus, particularly of the young and talented, reflects the reality that Quebec anglophones have an option in the ROC. If you want to live as an anglophone in an English-speaking culture, well, drive down the 401 to Toronto or move your capital and expertise to Calgary, Vancouver, or the United States. Why fight a losing battle unless masochism is your thing?

Canada's failure to defend anglophone linguistic rights in Quebec also perversely hurt Quebec. The losses for Quebec come in many dimensions; for example, the Quebec requirement for professionals to work in French limits potential immigration. One illustration of such a potential loss is seen in the inability of a Quebec hospital or clinic to recruit a U.S. citizen, an MD or PhD, board-certified radiologist, working, teaching, and researching as an assistant professor of radiology at a prestigious university. One might consider such a teacher or researcher as a leading molecule on the cutting edge of U.S.—indeed, global—radiology, and thus as someone who would be highly competitive for radiology positions in Montreal's medical and research establishment. But it took 19

years of university-level study, largely without vacation and enduring draconian hours of daily work, for the candidate to reach this level of qualification. Would Quebeckers expect this professor to devote another year or more to learning French—with the detriment of limiting direct medical practice and research—to meet an additional non-medical requirement? Since the professor's credentials suggest many attractive options not requiring language study, Quebec instantly becomes uncompetitive.

The West

We are well aware of the classic irritated Westerner who didn't want to see French on his cornflakes box—and the reported snippy, dismissive rejoinder by Pierre Trudeau to "turn the cereal box around." But the language dispute for many Western Canadians is simply another illustration of how Ottawa caters to Quebec and "disses" them because, despite its burgeoning wealth from oil and gas exports, the population base west of Ontario remains small enough to have minimal parliamentary effect.

Consequently, there are very few Westerners who have any intellectual or social investment in French as an official language or view bilingualism as a "good thing," other than in abstract terms. Interest in French, let alone facility in the language, is restricted to a social elite (and federal employees seeking promotion). In parts of the West, interest continues in heritage languages such as Ukrainian as a residue from extensive twentieth-century immigration and, in British Columbia, attention to Chinese and South Asian languages as a reflection of more recent immigration and an element of outreach to Pacific region economies.

Artificial Crisis

As an illustration of making something out of nothing, the semi-tantrum thrown by French speakers over the amount of French in the 2010 Vancouver Winter Olympics opening ceremony is classic. There was a perception that French got short-shrift, but no non-Canadian observer would have noticed much beyond the failure of the fourth leg of the Olympic cauldron to rise into place. Perhaps the dearth of French speakers (or those interested in hearing French) in Vancouver was involved? Or perhaps the planners focused on the reality that these games were *global*, not a rink for playing out Canadian linguistic reindeer games. Nevertheless, with much tut-tut head-nodding, the French fact was enhanced for the closing ceremonies—and again most of the world noticed only that this time all of the legs of the Olympic cauldron performed as desired. But Canadian ability to make a linguistic crisis over any topic is legendary.

Opportunity Costs

Canadians devoted to bilingual education and two official languages need to give serious reconsideration to what appears to be more ideology than logic. One of the legacies of Prime Minister Trudeau, himself a fluently bilingual child of an English-speaking mother and a French-speaking father, was noble, even inspiring, in its objective: the concept of an officially bilingual country with both French and English spoken, at least by government officials, from sea to sea to sea. The ambition was to enhance Canadian national unity—a conundrum from inception—by having French speakers feel at ease linguistically in every part of the country. (The obverse of the coin: having English speakers comparably

comfortable in Quebec has been less pursued.)

But fostering French facility throughout Canada has proved far less effective than the original aspiration. And the costs, both financial and in sociopolitical terms, have been high. In efficiency terms, learning Spanish is more useful in a hemispheric sense than learning French. And while Chinese is the third most widely spoken language in Canada, it is spoken by only 3 percent of the population (while 22 percent speak French). Moreover, the effort to learn Chinese is disproportionate to the likely results: it is technically difficult to master; less likely to be economically useful, since the Chinese one encounters professionally are likely to speak English far better than you will ever speak Chinese; and while there is only one serious form of English or French, the languages spoken in China are more different one from another than the languages spoken in Europe. So studying Chinese is more of an affectation than a practical approach to language—perhaps even an implicit rebellion against learning French.

Canadians are working hard to disadvantage themselves further. In the spring of 2010, the House of Commons passed a private member's bill that would make it mandatory that future Supreme Court justices be fluently bilingual, that is that they could understand the oral arguments brought before them without translation. At mid-2010, the Senate was considering the bill, and one senator privately expected it to pass on pure political correctness terms (despite admitting himself that although he had been raised and educated in French, he would not be able to understand fully a complex legal brief). Ultimately, the bill did not pass—being beaten back by Conservatives in the Senate. The current Tory parliamentary majority will prevent near-term repeat of this effort.

Nevertheless, the proposal that all Supreme Court justices should be effectively competent in both official languages would pose a bizarre restriction on the Canadian juridical system. The argument that an individual appearing before the court should be able to be understood when speaking his or her native language by all of the attending justices flies in the face of the professional realities of most professions, let alone the law. At the Supreme Court level, the nuances being examined require careful, extended review long after any oral presentation. One hires professional interpreters—whose expertise is in language—to bridge these gaps. The same challenges are faced by diplomats, who, as described earlier, will use interpreters in highly structured negotiations where every word can be freighted with meaning that would be irrelevant in casual conversation.

Let all be clear about what such a French fluency requirement would entail on the High Court. Legal discussions at the Supreme Court level are complex and intricate. To refuse justices the assistance of an interpreter is the equivalent of insisting they must have 20/20 vision and not use corrective lenses to read or not wear a hearing aid if auditory ability has declined. The result for Canada would be to stand the objective of jurisprudence on its head: knowing the language would be more important than knowing the law.

Essentially, to make fluent bilingualism a precondition for the Supreme Court would, effectively, reduce greatly the pool of prospective candidates—as well as raising the question of who would do the testing. Just as interesting, who would be testing

the English fluency of the three francophone justices? And who would guarantee that they understand a complex legal argument even if they had passed some test? In support of the requirement, one lawyer claimed that interpreters had mangled his presentation into the second language. Such a red herring. Even if true, the answer is simple: spend the money to get better interpreters and translators.

It is an absurdly mischievous proposal. Were the Canadians not discussing the topic with the intense seriousness that Canadians devote to comparable trivia, in the absence of real societal challenges, an observer might wonder whether every day is April Fools' Day in Ottawa.

Ultimately, the requirement for French facility as one of the "union cards" for federal political participation effectively precludes the vast percentage of those who devoted their early and mid-life careers to other areas. It tends to confine a national political career to those who from the age of five want to be prime minister—and devote their lives to getting the skill set necessary to compete at that level. Indeed, there is now a touch of contempt by media commentators for anyone has not pursued that route; a Canadian political career on the national level demands competence in both official languages.

Thus starting late in Canadian federal politics appears far harder than in the United States. For example, the U.S. pattern for political activity is often that individuals build a career or reputation in one area, gain success, and then, perhaps obeying their inner "Peter Principle," consider public or elected service. At the presidential level, U.S. domestic politics have been enriched by Woodrow Wilson (education), Ronald Reagan (acting), Dwight Eisenhower (military service), and Jimmy Carter (farming), who had real lives that preceded politics. Likewise, the entry into politics by those such as billionaires Ross Perot, Steve Forbes, and Donald Trump was not hindered by a requirement to speak, say, Spanish. And if Microsoft magnate Bill Gates eventually turns from philanthropy to politics, he would not require language certification (but presumably he would be Microsoft certified). Of course, Canadians "don't know who they don't know" through this implicit exclusion—the individuals who look at the challenge of learning French at 52 and say "too late and too hard."

Even though it is akin to trying to prove a negative, you don't know what you never had.

An American Alternative

As a multiethnic, multiracial, multicultural, multi-multi society, virtually from inception the United States has had a wide array of linguistic groups within its borders. It certainly was never uniformly English speaking—and most certainly is not so now. Historically, the colonies encountered Native American tribes speaking their own languages. New York (New Amsterdam) was originally settled by Dutch speakers. The "Pennsylvania Dutch" were German—and at one point, there was a push to have German as an official language in the colonies. Colonists also competed with French-speakers in areas on the Atlantic coast and Quebec as well as those spread throughout much of the "old West" (land between the seacoast and the Mississippi River) and in trapping and trading posts as far as the Pacific Ocean. An important individual encountered by Lewis and Clark during their expedition was the French "husband" of their Native American guide Sacagawea. The

French owned Louisiana and the key port of New Orleans as well as the other states comprising the vast "Louisiana Purchase" until the territory was obtained by President Thomas Jefferson in 1803. To the south (Florida) and southwest (from Texas through California), the Spanish language dominated and, in many of these areas, had been deeply embedded in government and culture since the days of Spanish conquistadors' explorations in the sixteenth century. Russia dominated Alaska until it was sold to the United States in 1867.

And yet, in a matter of years, no more than decades, these languages and their sustaining governmental and cultural structures were swept away by English. It was not done by government fiat—nobody was forbidden from speaking their natal language, but English was the language of commerce and politics throughout the United States, and its mastery was necessary for success. To be sure, "Cajun French" was and is still spoken in Louisiana, and Spanish persisted on a local and family level even prior to the vast influx of legal and illegal immigrants from Central and South America and Mexico; however, those speakers of foreign languages accepted that English was the medium of normal political and commercial exchange.

U.S. Government Official Language Policy

As can be appreciated from the U.S. *laissez-faire* approach to language use, there is no formal U.S. language policy. The one possible equivalent is that operated by the U.S. diplomatic service.

Following World War II, a board was constituted to study language requirements and ratings. These ratings specify in numerical terms the level of proficiency in speaking and reading. Thus "1-1" is survival level ("Help, get me a doctor" or "Where is the train station?") and permits the individual to read a directions sign. The highest rating would be "5-5," which would mean that the individual speaks and reads at the level of fluency expected from a native-born university graduate—a level at which most of the population in "hard language" countries could not themselves achieve. These ratings were agreed among U.S. government agencies and comparable testing standards were devised so that a "3-3" from the Department of Defense Language Institute at Monterey, California, was regarded as equal to the "3-3" from the Foreign Service Institute language training program in Washington, D.C. The "3-3" signifies basic competence for communicating in the language.

Additionally, while there are ratings identified for writing capability, the Department of State does not test writing skills. There may be U.S. diplomats who can write capably in a foreign language, but it would probably be a consequence of earlier education or extensive personal study and would not be the consequence of State Department instruction.

So far as timelines for instruction are concerned, the State Department will provide more than 20 weeks of instruction for a basic "world language" (for example, French, Spanish, or Italian) with the expectation that at the end of that process, someone with no previous exposure to the language and normal language capability should be able to reach a "3-3." For a "hard language" (Chinese, Arabic, or Japanese), an entering diplomat is first tested to determine innate language ability (the test consists of a brief exposure to an obscure language, e.g., Kurdish, that

nobody knows). For hard languages, a diplomat usually spends approximately a year in language training in the United States and then is sent to even more intensive language study in the area. Hence those studying Chinese go to Taijing in Taiwan and Japanese to Yokohama; for Arabic there is training in Tunisia and other Arabic speaking countries, depending on the diplomat's anticipated assignment. Even at the end of that training, a "2+/2+" would be an acceptable result with the expectation that the individual will continue private tutoring. The implicit expectation from such a commitment is that an officer will spent a significant part of a career using that language.

Consequently, training is a major investment by the U.S. government, often costing hundreds of thousands of dollars in salary and infrastructure expenses. For the diplomat, the opportunity cost is the real disincentive associated with time spent in training (and career opportunities are set aside while in training). While "hard language" training time is not counted against career limits, a U.S. diplomat's career does not meander on for the length of a civil service career; rather it is more akin to that of a military officer with an "up or out" promotion system ending most diplomatic careers at the 20 to 25 year mark.

Nor does language facility necessarily pave the road to diplomatic professional success. Although one can enter the Foreign Service as a "unilingual Anglophone," competence in one foreign language is necessary for retention and promotion—and ostensibly competence in a second foreign language required for promotion to senior levels. Nevertheless, the old judgment persists that skill in multiple languages may qualify you to be a headwaiter, but as a diplomat it matters more what you have to say ("He had nothing worth listening to in five languages"). Moreover, the U.S. diplomatic service is "faddish" in its approach to the language of the era. Thus a generation ago our best and brightest were rushed through intensive Vietnamese language training by the hundreds with the hope of winning hearts and minds in the rice paddies and villages. The utility of that skill post-1974 was and remains marginal. Now the "flavor(s)" of the decade are Arabic or Farsi or Kurdish or Pashto or Dari with the implicit thought that if an ambassador can speak on *Al Jazeera,* somehow our policies in Iraq and Afghanistan will be more acceptable to the listening audience. But any al-Qaeda militant so influenced is not much of a militant. And then there is always the separate question of "which Arabic" to learn: Egyptian, Saudi, North African, "street," or "classical." Consequently, a cynic can always wonder whether in 2030 we will be taking crash courses in Hindi, Bengali, Punjabi, and Tamil.

A Worse Future

Canadians seem to be operating under the blithe assumption that the essential nature of the Quebec-Canada conundrum will not essentially change or worsen. This is the sanguine "dermatology" analogy: the skin aliment will never be cured, but it will never kill you—never kill you until it is a melanoma. Instead, Canadians might consider the slow motion train wreck that is Belgium. Although the country has stumbled along with three official languages (French, Flemish, and German) since its creation in 1836 following the Napoleonic wars, it is increasingly bitterly divided in economic and social terms between the French-speaking Walloons in the south and the Flemish speakers in the

north. Brussels, the country's capital, is officially bilingual—as well as being the center of EU bureaucracy. Slowly but steadily, the country is separating into linguistic camps in its political and social life; for example, each political party has Flemish and French wings, as do many nongovernment organizations.

In June 2007, elections resulted in linguistic deadlock that persisted for more than six months. The parties essentially disagreed on social transfers from the richer Flemish-speaking north to the economically disadvantaged (but once dominant) French-speaking south. This federal-level bickering reflects the petty mutual linguistic harassments in the communes when requests made in one language are met with studied indifference by officials speaking the other.

In June 2010, the government collapsed over the linguistic rights of a small group of francophones in a clutch of Dutch communes on the outskirts of officially bilingual Brussels (imagine a prospective fight over linguistic rights of anglophones in the Quebec ridings immediately outside Ottawa). The largest party after the election called for the breakup of the country with an independent Flanders. After 541 days of negotiation, on December 6, 2011, a governing coalition was created, but as of mid-2013 its long range survival prospects are questionable.

There is a cruel inevitability for the predictable future of what some have called Europe's most successful "failed state." Well over 30 years ago Belgians would comment that while they had taken 12 years of academic instruction in the "second language," they were proud that they did not speak it at all. Having heard comparable comments in Canada, the Belgian experience can be instructive.

While there are certainly still "Belgians" struggling to make their country functional, the anecdotal evidence for going their own way (à la Yugoslavia or Czechoslovakia) cannot be dismissed—and the potential for Wallonia becoming a region of France and Flanders a UN member is not trivial.

But Consider a Technological Alternative

There are times when technology resolves a moral or philosophical debate. Computerized software is providing translation both written and oral in various languages. At this juncture, we see its limitations in voice menus on telephones offering the caller information in a language of choice; however, readily available computer programs for the blind (or the sighted) are converting spoken instruction into written language. Likewise, optical scanners are putting written texts into oral form. And hand-held devices for the tourist are generating limited vocabulary in a "foreign" language. Is the time too distant when unilingual speakers of different languages will "text message" to one another face-to-face and receive the translation in their own language? Given the reality that listeners perceive speakers to be untrustworthy to the extent that their speech is accented, a mechanical translator—even with limited vocabulary—could be invaluable on many personal and professional levels.

8 THE CANADIAN MILITARY AND DEFENSE OF NORTH AMERICA

Both Canada and the United States are caught in the amber of history. Over the generations our defense relationship shifted from being "oldest enemies" to "closest friends," with projections and expectations comparably adjusted.

Yet these perceptions are again in the process of adjustment—and necessarily so. Until its recent commitments in Afghanistan and coincidental modest defense budget increases, the last gurgles of the Canadian military establishment were headed down the drain. Conservative government action (building on Liberal commitments) put in a "plug," but it will take as long to refill as it took to empty—even assuming that defense expenditures continue at projected levels. Unfortunately, mid-2013 predications of defense budget reductions of up to $1 billion strongly suggest otherwise. There is a significant likelihood that the plug will again be removed with fatally "draining" consequences for Canadian defense.

For historians, the portrait is particularly painful. Canada has a magnificent military history, replete with heroes and national response to vicious global challenges. In both world wars, Canada, protected as it is by three oceans, could have hidden in the equivalent of the global closet and done minimal or perfunctory military service (as was the case for South American powerhouses such as Brazil and Argentina). Instead, Canadians not just rose, but seized and embraced these challenges, bloody and expensive as they became.

Canada entered World War I in 1914; with a population base of 7.2 million, it put 600,000 into uniform, of whom more than 10 percent died (65,000) and another 150,000 were wounded. Thousands of Americans, scornful of Wilsonian neutrality disguised as morality and eager to resist German aggression, joined Canadian units. In contrast, the United States did not enter the war until 1917, spent a good deal of time getting its act together, arrived in France proclaiming "Lafayette, we are here," and claimed to have won the war when it ended a year later. That judgment

is not to denigrate U.S. efforts, which were heroic and probably pivotal for the Allied victory, but to recall simply that Canada was there first with the most. Indeed, it has been persuasively argued that modern Canada was born with the combat victory on Vimy Ridge. From a military point of view, the action on Vimy showed tactical creativity and an economy of force (and relatively low casualties in comparative terms) that suggested the Canadian military had advanced beyond the butcher logic that seemed to impel European combat commanders of the era.

In World War II, Canadian efforts were, if anything, even more impressive. From a base population of 14 million, Canada put 1 million into uniform—analogous to the 14 million the United States brought under arms from a population base of 140 million. Canadian armed forces were overwhelmingly volunteers. To be sure, galvanized by the Japanese attack on Pearl Harbor in 1941, U.S. forces had high numbers of volunteers, but they were stimulated by the draft from 1940 onward, and many men volunteered for military service to give themselves somewhat more control over their branch and circumstances of service. U.S. volunteer levels were nowhere as high as Canadian, which were not initially connected to conscription.

Most Canadians are at least peripherally aware of their combat contributions in World War II. To be blunt, some were disasters: inadequately trained and equipped troops dispatched to Hong Kong were swept up by the Japanese storm; a variety of still-debated errors led to a bloody disaster in the raid on Dieppe. But subsequently, albeit slowly, Canadian Armed Forces performed effectively in Italy's mountains and commendably in the post-D-Day fighting from June 1944 until the end of the war in Europe in May 1945. Indeed, Canadian forces had their own landing beach on D-Day; U.S. and UK each forces had two. There was no question in Allied military circles of whether the Canadians were up to the job; D-Day was not designed as politically correct tokenism with every ally getting its little patch of sand to play war games.

Canadian forces operated closely with both U.S. and British combat elements fighting their way out of Normandy; 69 years later, remaining Canadian veterans recall with pleasure their association with U.S. forces during that period. To Canada fell the primary honor of liberating the Netherlands. The combination of that feat of arms and the hospitality shown by Canadians to the Dutch royal family throughout the war has prompted 69 years of warm memories reflected in beds of tulips in Ottawa and an annual Dutch commitment to decorate the graves of the fallen in the Netherlands.

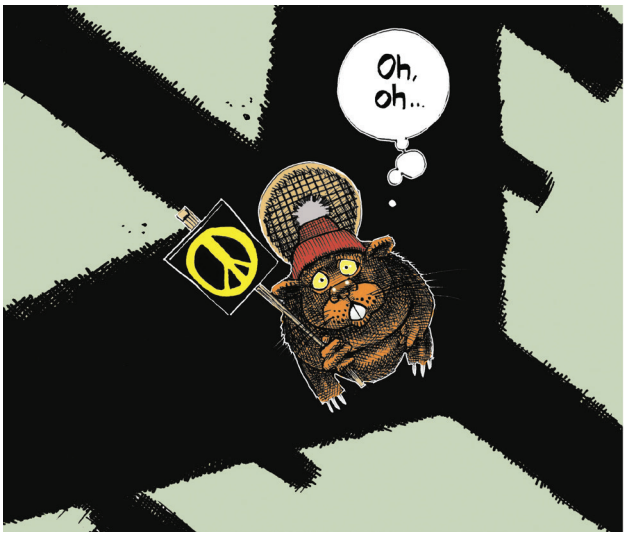
As the war ended in August 1945, Canadian forces were preparing for combat in the Pacific against the Japanese. Their war had lasted almost six years.

The High Point: A Summing Up in 1945

At the end of the war, Canada had by most estimates the fourth strongest military force in the world. It consisted of trained, effective combat divisions; a powerful navy that had kept the North Atlantic sea lanes open and included an aircraft carrier; and a heavy bomber force that had devastated good parts of Germany in cooperation with U.S. and British bombers. Moreover, there was a strong production base, virtually endless natural

resources, and the technical and material capability to produce nuclear weapons had the government chosen to move in this direction.

Canada had punched far above its weight class. Its military contribution and combat competence had bought Canada a significant role in the creation of the United Nations. If it had pursued the option, Ottawa—albeit not contending at the same military level as the United States, the United Kingdom, or the USSR—could have been a major global military force throughout the second half of the twentieth century. It would not have been cheap, but an analyst might imagine a 2013 Canada with population of 34 million devoting the same percentage of its GDP to defense and security as France (2.3 percent in 2010) instead of 1.4 percent, with a variety of extended range combat capabilities. But it did not so choose, and the intervening 68 years have seen a steady decline in military capabilities to the point where its World War II combat competence is not even a dream.



Aislin, "oh, oh!", oh, oh!, and other recent cartoons by Aislin, 2004

The Downward Trail

The Canadian military did not implode from a million in uniform to 68,000 (mid-2013) overnight. At one juncture during the early days of the Cold War, Canada devoted close to 50 percent of its federal budget to the military, and with armed forces numbering 120,000, was entitled to regard itself as first among the "middle powers." In 1950, in response to the North Korean invasion of South Korea, Canada joined a U.S.-led, UN-endorsed effort to repel the aggression. The much lauded Princess Patricia's Canadian Light Infantry provided a battalion that performed heroically and won a U.S. presidential unit citation. But Canadian military participation was limited to a brigade, part of a British Commonwealth division; no one even conceived of sending a full infantry division. Retrospectively, at least one historian (Pierre Berton) dismissed Canadian action in Korea as driven by U.S. rather than Canadian interests.

Throughout the 1950s, as examined in the Spring 2011 issued *International Journal,* Canadian politics were roiled by controversy over any level of defense spending. Major armament projects (the Avro Arrow) were cancelled, and there was serious debate over cooperating with the United States for North America's air defense and maintaining a European military presence once Europeans began substantial Cold War-driven rearmament.

Nevertheless, throughout the Cold War, Canada participated in the NATO preparations for the defense of Europe. Often this effort appeared more dutiful than devoted. Nor was it proportionate to the commitment conceivable, given its

GNP and population. That is not to imply that the Canadian air force unit and its infantry and armor brigade were not combat effective units. At one juncture in the late 1970s, this author observed a "Reforger" military exercise in Germany and visited the Canadian brigade headquarters. The force and its commander demonstrated solid military competence. Canadian Forces were counted upon by other NATO allies as main line combatants that would be in the forefront of any slugging match with Soviet invaders. The grim judgment of those who for a generation feared apocalypse in Europe was that we would "have to fight outnumbered and win." Canadians would have been part of that desperate, and fortunately avoided, struggle.

Little more than 20 years ago in 1993, Canada had major contingents assigned *inter alia* in Cambodia, Cyprus, Somalia, Bosnia, Croatia, Sinai, and the Golan Heights, along with approximately 5,000 Canadians still serving with NATO forces stationed in Germany. Approximately, 10,000 Canadian service personnel were helping to maintain international peace and security.

Subsequently, reduced budgets, 30,000 fewer personnel, and serious sustainability problems limited Canadian participation in outside its borders. Currently, other than its Afghanistan commitment (now substantially reduced to noncombat Afghan military and police training), Canada was no longer doing UN-sponsored peacekeeping missions.

But with the end of the Cold War, there seemed to be a sigh of contentment from Ottawa. No more of this "standing on guard" for "thee" or for anyone in the Fulda Gap. No more combat forces in Europe. And likewise no particular appreciation of the sobriquet that instead of a peace dividend (and reduction of defense expenditures), "peace is the dividend," and the costs of defense must always be paid in advance.

While the Mulroney Tories reduced Canadian Forces in accord with their concept of the peace dividend, it was with the Chrétien Liberals that Canada's military forces hit rock bottom. Although after taking power in the 1993 election, the Chrétien 1994 defense white paper promised that Canada's forces would be designed to fight "alongside the best; against the best," this commitment was breached before it was even contemplated for honoring. Facing substantial deficits, the Liberal interest was budget reduction, and down went the CF: a $12 billion budget dropped to $8 billion; personnel were shrunk by one-quarter to 60,000 regulars. Two of the three service colleges and the National Defense College were closed—so much for training the next generation of military officers, let alone equipping it. (As the first Chrétien action was to cancel replacements for already antiquated Sea King helicopters at a cost of $500 million in penalties. That by 2013 the Sea Kings were still flying—and still not replaced—speaks more for the creativity of mechanics than for coherent force modernization.)

Current Canadian Attitudes: Origins and Effects

Canada at Base Is Anti-Military

Ottawa has turned steadily away from military commitments. No democratically elected leader eagerly embraces the opportunity for war. Indeed, it has been noted (perhaps in a stretch of rhetoric) that democracies have not

made war upon each other. That judgment may rather reflect more the lack of opportunity than political virtue, as democracies historically have been relatively rare. In any event, Canadian democracy has not only turned away from war, but also from most activity that would be regarded as warlike.

The essential element is the unresolved dichotomy that is "Canada." A core element of the history of Canada is resented conquest, stemming from French defeat in 1759 on the Plains of Abraham. The story of English (James Wolfe) victory and French (Joseph de Montcalm) defeat has empowered English speakers and frustrated the French, who have nursed grievance for over 250 years. French speakers, and notably Quebec francophones, never believed themselves to be full citizens of Canada (nor largely wanted to be), and English economic and political dominance of Quebec from "the conquest" to the "Quiet Revolution" beginning in the 1960s reinforced the condition.

As a consequence, neither of the world wars provided the impetus for Canadian national unity that these wars did both for the United States (and for other of the Allies such as the UK and the USSR). Indeed, for Canada the wars were immensely divisive.

On the one hand, anglophones saw the "mother country" of England and the British Empire more generally as under mortal attack. It was a duty, indeed a moral obligation, to resist German aggression. Examining the documentation of the 1914 era, even secondhand and filtered through the perceptions of others, reveals a blithe and naïve enthusiasm with moral and religious roots to resist "the Huns" and assist England. Moreover, the United Kingdom was a primary source of recent immigrants who instinctively rallied to the Mother Country. Additionally, London was the intellectual and social capital of Canada; in 1914, the king was as much king in Toronto as he was in Manchester.

Francophone Quebeckers, with exceptions to be sure, did not feel the same visceral emotion. Never fully integrated socio-politically into Canada, they had little interest in "King and Country" or supporting with their blood and treasure the overseas representatives of their oppressors at home. They had not endorsed Canadian participation in the Boer War and were consistent in their opposition to Canada dragging francophones into fighting in Europe or elsewhere in the world. Defend Canada against direct attack by a foreign invader? *Mais oui.* Certainly. But foreign excursions, *non merci* (thank you, but no thank you).

Nor did the vision of France under assault by German armies prompt francophone unity. The France of Clémenceau and Barrès was not a mother country for Quebeckers. Indeed, the almost two-century separation had left the dialect spoken in Quebec on the verge of being incomprehensible to many European French speakers. This was the France that had abandoned them following the 1759 defeat and whose representatives characterized Canada as "arpents of snow" while choosing to recover various sugar-producing West Indian islands rather than French North America. Moreover, twentieth-century France was essentially anti-Catholic as a heritage of the French Revolution, which destroyed much of the ostensible Catholic presence in the country and rigorously separated church and state. For French-speaking Quebeckers, the Catholic Church was dominant in every element

of life. Its principal spokesman prior to World War II, Father Lionel-Adolphe Groulx, expressed views that approached fascism in their antipathy to democracy and Jews. Anglophones regarded Quebeckers as "priest-ridden" and social commentators believed that the power of the Catholic Church over Quebeckers would be a sociopolitical given into the indefinite future.

Thus when the question of military conscription became a national issue, it was strongly supported in English Canada and roundly opposed in Quebec during both world wars. Pressing forward with conscription to fill up the ranks of those lost in battles on the Western Front, the draft of Quebeckers was also accompanied by draft riots. With much political anguish and maneuvering, a Military Service Act was orchestrated through Parliament in August 1917. The protracted bureaucratic nature of notifying prospective conscripts, resolving the cases of those seeking exemptions (and almost all did), and training, and dispatching the raw recruits, altogether entailed close to a year of delay. Fortunately for Canadian unity, the war ended before any significant number of draftees (fewer than 25,000) was dispatched to Europe, let alone suffering the casualties that would have further embittered Quebeckers.

Circumstances in World War II were comparable. Although the rush to the colors in 1939 lacked the idealistic fervor that characterized the volunteers of 25 years earlier, it was once again, as noted above, remarkable in its commitment. Despite the 60,000 dead of their father's lost generation and the expectation that the war would be long and brutal, Canadians still volunteered. The numbers of those who knew anything about German-Polish differences were few. There was no knowledge that standard German anti-Semitism would become a *Holocaust*. But again, when the issue of military service, and particularly conscription, came into play, francophone Quebeckers simply opted out. It was not their war. Prime Minister MacKenzie King's evasive judgment of "a draft if necessary, but not necessarily a draft" sounded masterful in ambiguity, but proved divisive in practice. The national referendum of 1942 on conscription demonstrated this division by piling up solid majorities throughout English Canada, but defeat in Quebec. The result was that the 1940 National Resources Mobilization Act (NRMA) enlisted men for the defense of Canada—but not for overseas service. The NRMA men, nicknamed "Zombies," held fast to their non-deployable status; despite social pressures and inducements, they declined to volunteer for active overseas duty, which after the 1944 D-Day landing and intense combat (1,000 killed and wounded during the first day on Juno Beach) became increasingly dangerous. Faced with a desperate need for reinforcements and a dearth of volunteers, King eventually authorized compulsory overseas service for NRMA members but only after massive political debate and wrenching domestic disagreement. Again, as had been the case in World War I, the fighting in Europe ended before any significant number of Zombies went to the front, and it was never an issue for the Pacific war.

More than 68 years after the war, bitterness remains among the ever-thinning remnants of the anglophone veterans toward the relative nonparticipation of Francophone Quebeckers—and toward the anglophone Zombies who remained out of the battle. One side of the debate claims that King was masterful in mitigating the potential for a

disastrous domestic split with implementation of an early draft. The other side counterclaims that the bitterness simply exacerbated anglophone belief that francophones can dine *à la carte* in Canada: scoop up benefits and avoid sacrifices.

As the veterans die, the memories fade and the vitriol is less corrosive. There is a bland conclusion that all of the "Greatest Generation" veterans and nonveterans are to be appreciated and honored simply for still existing. The historical reality, however, continues to condition Canadian military attitudes: Quebeckers remain uninterested in foreign adventures. Quebeckers vehemently and overwhelmingly opposed the 2003 "Coalition of the Willing" assault on Iraq, and their hostility to the Afghanistan commitment was the strongest of any element in Canada.

One of the classic themes in U.S. war movies and stories is the squad or platoon consisting of the tough kid from inner city New York, the farm yokel from Kansas, the "college boy," the rich man's son, the Jew/Catholic/Protestant, and an American Indian. Combat, hardship, sacrifice, and ultimately death, generate bonds of mutual loyalty; the story is the paradigm of the American melting pot. It is another way of demonstrating one of our national mottoes, the Latin inscription *E pluribus unum* (from many, one). One may smile at the artificiality of the construct, but it was not without a grim reality; the life stories of the handful of Marines who raised the flag at Iwo Jima included a Pima Indian, a French Canadian immigrant, a steelworker's son, and a navy medic. They live today, forever captured in bronze, overseeing Washington, D.C., and the Arlington National Cemetery (where three of the flag raisers are interred).

There is no comparable Canadian story. Canada, as multinational and multiethnic as the United States, is unable to hark back to shared national sacrifice and the valor of individual soldiers as a force for national unity. Instead, the world wars emphasized rather than healed Canada's fault lines. For example, it is clear that many Canadian soldiers despised Prime Minister King for his flaccid refusal to provide draftee support for the volunteers. In an oft-forgotten vignette, soldiers, who were permitted under the electoral rules of the day to vote in any constituency, voted to defeat King in his riding during the 1945 election; it was a memorable, direct, and telling insult. It is inconceivable that FDR would have been so personally rejected by U.S. soldiers. As a result, the wars are downplayed in Canadian history, appreciating that they only exacerbated Anglo-Franco divisions. And if you want to make the 60,000 dead from World War I and the 45,000 dead from World War II into nonpersons, a reasonable conclusion would be that they may be individually "heroic" but are not politically important or worthy of serious historical mention or consideration.

No Military-Political Leaders for Canada

One of the abiding divides between Canadian and U.S. history is the role of military figures in politics. A Canadian general has never become prime minister; indeed, Canada's most trusted and admired military figure from World War I, General Sir Arthur William Currie (1875-1933), who led the unified Canadian Expeditionary Force, was belabored by the media in his subsequent private life by persistent libelous attacks. No Canadian military figure emerged from World War II or the Korean conflict with a significant political profile. The most noteworthy Canadian

military peacekeeper, Major-General Lewis MacKenzie, was unable even to be elected as a Member of Parliament and is reduced to being an acerbic critic of Canadian political and military policy. The most respected contemporary Canadian military officer, General Rick Hillier (retired), who served as Chief of Defense Staff (CDS), appears to be deliberately avoiding electoral politics. Placing Lieutenant-General Roméo Dallaire in the Senate is an illustration of tragedy not heroism; to some, it suggests that even peacekeeping is futile; to others, it suggests that the Canadians of the Sam Steele era would have died trying to save their troops and those nameless Africans in a "forlorn hope" charge.

In contrast, the strong majority of U.S. presidents have had military experience, and U.S. political history is replete with general-presidents. Some are obvious: George Washington, Andrew Jackson, and Ulysses S. Grant. Others are more obscure: William Henry Harrison, Zachary Taylor, Rutherford Hayes, and James Garfield. The most obvious of recent memorable U.S. soldier-president is Dwight David Eisenhower—the prototype for generals who hope that stars will lead them to political mountain tops. Other U.S. presidents have often had military, indeed combat experience, albeit not at the highest command levels: World War II-generation veterans who reached the presidency (Richard Nixon, John F. Kennedy, Lyndon Johnson, Gerald Ford, George H.W. Bush) were all lower-ranking officers, and interestingly they were all naval officers.

It is not the case that military figures had no role in Canadian political life. Former Defense Minister Barney Dawson still brings quivers of satisfaction of Canadian supporters of a strong military. Simply put, however, there is no expectation that success in the Canadian armed forces will have any political resonance. There is no expectation that military service is a societal good thing directly correlated with being a good citizen.

As a consequence, the last Canadian prime minister to have had military experience was Lester Pearson in World War I; he, at least, could appreciate the potential political utility of armed force and he artfully developed it into peacekeeping.

Other than Pearson, Canadian prime ministers have appeared to view the military with contempt or indifference. Most famous of these was Pierre Trudeau whose adroit avoidance of military service combined with apocalyptical tales of driving about Montreal on a motorcycle wearing a German helmet during World War II would have made him unfit for election as dog catcher in the United States. Instead, Trudeau managed to avoid military service with the suggestion that he hadn't noticed how important the war was and, as a Quebecker, was essentially given a "pass" by those unwilling to suggest that he was unpatriotic, let alone cowardly. Panache with a cape substituted for campaign ribbons.

Almost as amazing were the antics of Jean Chrétien, who in his long career as minister of everything, never came near the defense ministry (and only tangentially in the dying days of the Turner government served as foreign minister). Thus it was amusing to see him unable to put on a helmet correctly, but pathetic to hear his rationale for rushing through a military cemetery in Germany in 2002, offering the excuse that if there had been Quebeckers buried there, he would have stopped. For a man who noted his brother's World War II military service with pride in *Straight from the Heart,* it demonstrated

a cold indifference to sacrifice that was as much an insight into current Canadian psyche as into Chrétien's soul. It would have been so easy for Chrétien to have paused for a moment before a tombstone and said something like, "He was my brother's age. What a loss." However, it wasn't important to Canadians (and thus not to Chrétien) that he pay a few minutes of homage to those who died liberating victims of German aggression. It was even less important for Chrétien, seeing as they were not Quebeckers who had died.

In contrast, there is not a U.S. politician, from city councilor to president, who does not have it genetically imprinted on his soul that you honor the dead. At its worst, this becomes wrap-yourself-in-the-flag posturing where the politician figuratively stands on the coffins of the dead as a platform for promoting personal policy. At its best, it reflects the recognition that national security is a continuum. Death in defense of national interest is never trivial, and freedom today came at the cost of sacrifices yesterday. Moreover, freedom tomorrow will be based on preparation to die in its defense today. Indeed, those observing and criticizing U.S. foreign policy and military commitments should recall that the Pentagon is directly in line-of-sight from Arlington National Cemetery. There is no senior military leader in Washington who does not have that daily reminder—or who needs the 9/11 memorial at the base of the Pentagon's southwest wall—to reinforce the recognition that even the most valid military action has harsh costs. Often it appears that today's Canadian has forgotten the point—or decided to outsource the defense of Canada's liberty.

Changing Societal Composition

The racial-ethnic composition of both Canadian and U.S. society has changed radically since World War II. To be sure, the "French fact" in Canada and the "Negro" in the United States were significant elements of the World War II populations, but both societies were substantially white Anglo-Saxons in appearance and certainly in their socio-political attitudes during the first half of the twentieth century. In the United States, African-Americans were largely excluded from the armed forces and segregation was the norm. To review film footage of U.S. World War II combat forces in the 1950s documentary *Victory at Sea*, or in recreated docudramas such as Steven Spielberg's *Band of Brothers*, is to recognize that the war was disproportionately fought by white males. The Tuskegee airmen have been dramatized for socio-political reasons (most recently in the George Lucas film, *Red Tails*) as earlier were Japanese-Americans in the 442nd Regimental Combat Team, but despite their heroics, both were only a tiny percentage of U.S. combat personnel.

That is not the case today. The United States' population exceeds 316 million-approximately 15 percent is Hispanic, approximately the same numbers are African-American, and another 5 percent is Asian. U.S. armed forces are now "all volunteer"; conscription has been eliminated for a generation. Indeed, no young adult reaching what used to be the age for draft registration (18 years old) has lived under "the draft." The depressing media collages of photos of those who have died in recent U.S. combat activity show that death is shared: racially, ethnically, and now even by gender. While there are certainly racial fault lines in U.S. society, and divisions between rich and poor, the armed forces are widely seen as not only integrated, but also even-handed in their treatment of individual soldiers. At least so far

as the U.S. military is concerned, the United States is a melting pot and a path for upward social mobility for young men and women. In national terms, military service is honored and respected; eyebrows would not be raised in any element of the U.S. population for a son—or daughter—who decided to enlist for military service, commit to officer training at university, or "re-up" or "go career" after an initial tour of duty.

Such is not the case in Canada. Substantial numbers of recent immigrants to Canada come from countries whose military forces were instruments of repression rather than liberation. They have no interest in, indeed active antipathy for, the armed forces. Recruitment is difficult, particularly among "visible minorities" and not even the Great Recession and positive societal attitudes toward soldiers serving in Afghanistan stemmed departures from CF regular and reserve forces when legal commitments were completed. Nor does academic instruction provide much in the way of positive reinforcement for those who may be favorably inclined toward the military; history books have largely forgotten Canada in combat as effectively documented in Jack Granatstein's *Who Killed Canadian History?*.

Moreover, the military is largely invisible in Canada, buried as it is in bases far from major population centers. Its tiny size, manned primarily by long-term volunteers, means that there are relatively few individuals who "show the flag" by appearing publicly in uniform, and these are limited to a few military bases and their surrounding garrison ports and cities. There was even a media flap over uniformed CF members participating in new citizenship ceremonies. Likewise, the reserve forces (to be discussed in more detail below) are limited in size and restricted by regulations that discourage participation. The result is that until the Afghanistan experience there were ever fewer numbers of veterans in Canadian society and, even following Afghanistan, their role is peripheral rather than illustrative, let alone inspirational.

Canadians have also adopted an attitude that approximates that of the old Chinese maxim that "you don't make good iron into nails, and you don't make good men into soldiers." Following the extended CF experience in Afghanistan, there is greater popular respect for military personnel—but no commensurate societal interest in military service. Thus an anecdotal account of a Canadian young woman offered admission to the Canadian military academy at Kingston detailed the reaction by her contemporaries as shock and even horror that she would consider such a career. Although the story is some years old, it remains relevant. In contrast, an American high school student admitted to West Point, Annapolis, or the Air Force Academy has won a prestigious honor reflecting admission to an elite institution—whether or not contemporaries had any interest in a military career.

Remembrance Day versus Veterans Day

Who are our veterans and what do they mean for our societies? There is no more telling an indication of our varying bilateral approach to the armed forces than is demonstrated by our management of ceremonies on November 11. This event marks specifically the conclusion of hostilities between German and Allied forces in 1918, but more generally, honors those who served in the armed forces.

For many Canadians, participation in the "Great War" marked their emergence as a nation forged in the combat surrounding

the fighting over Vimy Ridge. For American historians, the war is often regarded as the first appearance of the United States as a world power—and, perhaps with an iota of American self-importance, as the savior of Europe.

Canadians commemorate November 11 as "Remembrance Day." Americans mark it as "Veterans Day." And the difference is more than nominal. For Canadians, until very recently and Afghanistan-related, the day appeared increasingly to be one of recalling something of dim and distant memory. The overwhelming mass of the events of the world wars and the Korean War are so long ago and far away that they were almost the societal equivalent at looking over that box of old toys in the attic that you put away when puberty directed other interests. Or you politely listened to the tales that grandfathers (who you cannot imagine ever being young) offer in abbreviated and sanitized form so they will not bore or shock you. Thus the death of the last Canadian soldier who served in World War I (he lived most of his life in the United States) in early 2010 was noted with quiet dignity, and the rapidly depleting cohorts of World War II veterans have been attracting "oral history" buffs. Afghan war vets are respected individually without prompting young Canadians to emulate them.

For Americans, however, the "vets" are immediately at hand—23.4 million (estimates vary) of them who together comprise close to 10 percent of the U.S. adult population. America's wars and America's veterans are intimate parts of daily life. A long string of "little wars" and campaigns have filled the past 68 years: Korea, Vietnam, Grenada, Lebanon, Panama, Gulf I and Gulf II, and Afghanistan. Although the "greatest generation" associated with World War II is now passing from the scene, the role of the veteran in political and social life has strengthened. Military service, or lack thereof, is always relevant in U.S. politics.

Thus one of the most memorable political advertisements during the tumultuous 2004 U.S. election campaign was the one criticizing Senator John Kerry as created by "swift boat" Vietnam veterans. With a passion undiminished by the passage of 30 years, they charged that Kerry had betrayed them and their comrades by his unsubstantiated accusations that U.S. soldiers were war criminals in Vietnam. There was an authenticity in their enduring outrage that deflected Kerry's effort to depict himself as a staunch defender of U.S. military security. The countercharge that President Bush had evaded his Vietnam-era Air Force reserve requirements and not fully completed his commitments collapsed when the much-advertised and claims by Dan Rather and CBS claims proved to be based on forged documents.

Subsequent voting patterns indicated that a strong majority of veterans supported President Bush (and one poll suggested that 70 percent of the U.S. Armed Forces did so as well). Likewise, veterans and active duty military strongly supported Vietnam war hero Senator John McCain over Senator Barack Obama in 2008 and Mitt Romney over President Obama in 2012.

Indeed, the selection of Senator Kerry as Secretary of State and former Senator Chuck Hagel as Secretary of Defense prompted head-shaking among veterans. The president had clearly selected birds that flew only with their left wings to preside over diminished U.S. roles in foreign and defense policy.

In contrast, it was not only irrelevant but

would have been regarded as ludicrous had the question of military service for Paul Martin, Stéphane Dion, Michael Ignatieff, Steven Harper, Jack Layton, or Gilles Duceppe even been raised. And one doubts that Justin Trudeau's and Thomas Mulcair's lack of military experience has any relevance for the Canadian electorate.

One of the prominent sites in the Washington area is the Arlington National Cemetery. Overlooking the city and surrounding the family home of Robert E. Lee, the cemetery holds the graves of 300,000, including President John F. Kennedy and his family members, as well as the Tomb of the Unknowns.

One noteworthy memorial in the cemetery was erected in 1927 by the Canadian government to honor Americans who had "served in the Canadian army and gave themselves in the Great War." Comparable language identifies Americans who died while serving with Canadian Armed Forces in World War II and Korea. A cross, standing over 20 feet high and incorporating a massive bronze sword, lies less than 50 yards from the amphitheater incorporating the Tomb of the Unknowns. In this era, Canada led the way in its military response to aggression. Thus German attacks on European states in 1914 and again in 1939 prompted an immediate, strong Canadian military reaction. In contrast, the United States was dilatory, indifferent, and at times outright hostile to participating in such combat. The British were imperialists and bullies; the Germans' aspirations were "understandable." Hitler was a posturing loudmouth with a funny moustache. Canadians of that day couldn't understand why we didn't understand.

Now a significant number of Americans still awaken every morning with the image of the 9/11 burning towers riveted in their minds—a memory reinforced by the tenth anniversary commemorations of the attack, and again by the Boston Marathon massacre in April 2013. Canadians can't understand why we won't get-over-it, address "root causes" of terrorism, alter our approach to the Middle East, learn to love the United Nations, negotiate with the Taliban, and take our differences with bad guys, e.g., Somali pirates, to the International Criminal Court. We can't understand why Canadians don't understand.

Facing the Canadian Military Reality

Advocates of a stronger Canadian Forces and enhanced military spending regularly cite polls indicating popular support for increased defense and security spending. These are interesting, albeit largely irrelevant statistics. Sometimes increased defense spending is presented as an abstraction that postulates the spending with a softball, friendly question. Sometimes it is part of a list to suggest increased spending on motherhood topics such as health, education, infrastructure, etc. (greater defense spending then garners an endorsement but never by as large a majority as other options). You do not see questions that say, in effect, "Would you increase defense spending by reducing money for health care?" Instead, the media emphasis is on waste, fraud, and abuse in military spending or scandal such as sexual harassment.

There was a grudging societal acceptance that during the Canadian combat mission in Afghanistan, which ended in mid-2011, Canadian Forces needed to be equipped at first-team levels, but it was always rationalized

or defended as saving and protecting individual soldiers rather than advancing a combat mission. The Canadian government was swimming upstream against popular opinion for most of its 10-year Afghan combat effort; it will be interesting to see whether the public accepts any casualties stemming from its current role in training Afghan military and security forces.

As of mid-2013, concern for problems such as security and terrorism barely registers in Canada. The April 2013 aborted terrorist attack against a VIA rail Toronto-to-New York train quickly departed from Canadian media. In contrast, events, reinforced by the Boston Marathon terrorist bombing, remain substantial problems for the U.S. population, despite the economic imperatives that have loomed during the Great Recession. The primary concern by Canadian media often appears to be that Canadians not be inconvenienced by U.S. border and security controls. This point of view tends to place the emphasis on what is the minimum required to placate that obsessive Uncle Sam rather than what is the maximum that can be done to safeguard U.S. and Canadian domestic security.

Despite the anomaly of their Afghanistan commitment, Canadians are saying politely, quietly, but in a clear Canadian way, that they do not want and will not want for the immediate future any armed forces that would approach the capabilities of what Canada's national GNP or technical and industrial competence would permit. Such a force would probably require expenditures on, say, the level of those of France (2.3 percent of GDP vs. Canada's 1.3 percent in 2012) and would probably need to be accompanied by conscription to fill out the ranks of volunteers and prevent personnel costs from devouring the defense budget. Such imperatives are simply impossibilities.

A Military in Which Nobody Dies

Even more basic than money is commitment. Today, Canadians seem to believe that the unlimited liability associated with military service is a meaningless paper abstraction. They no longer seem to recognize that military service—even intensive training for military duty—is hard and an inherently dangerous activity. The maxim, "Train hard; fight easy," seems to have totally disappeared from the popular concept of the preparation required for Canadian Forces. Consequently, Canadian public reaction to death on active duty appears wildly disproportionate to the loss. There is a maxim that one death is a tragedy, but 10,000 deaths are a statistic. Canada now is so safe a society that any death stimulates a media-driven outcry suggesting to all involved that no action is better than any action if there is a chance that there will be a death, let alone a combat casualty.

Therefore, while the "friendly fire" death of four Canadian Forces personnel in Afghanistan in 2002 and the wounding of several others was wholly regrettable, even more regrettable, in historical terms (at least for the Confederacy), was that General Stonewall Jackson was killed by his own forces during the Civil War. Or that General Leslie McNair (and several hundred U.S. troops) were killed by errant bombs in World War II in Normandy. Or that U.S. forces shot down a British plane during the second Gulf War. Modern weapons have reached unprecedented levels of accuracy and lethality; we are virtually at the level that to shoot is to hit is to kill. Therefore, the fact that in war "things happen" does not excuse the level of confused, incompetent

stupidity demonstrated by the Air Force pilot that bombed the Canadian patrol. So far as assessing fault is concerned, it is virtually impossible to second-guess armed forces personnel who claim that they believed they were threatened or under attack—regardless of the unlikely nature of the circumstances. But the degree to which it dominated Canadian press, with a nearly obsessive focus on how and in what detail the United States apologized for the action, was baffling to U.S. observers. Likewise, the relentless attention given each death during the Afghan conflict, totaling 157 in 10 years (which one Canadian observer privately suggested was less than snowmobile deaths in the same period), seemed to suggest that Canadians were a nation of professional mourners and grief counselors.

At a comparable point in 2011, approximately 1,650 U.S. troops had died in combat, some of them doubtless by accident. In Afghanistan, the most prominent volunteer in the post-9/11 military, professional football player Pat Tillman, was killed by U.S. forces in a confused night-time encounter ultimately determined to be "friendly fire." It was a personal family tragedy and a national media story, but not a subject for detailed obsessive attention.

In another example, Canadians obsessed over the death of a single sailor in a smoke inhalation accident on the submarine *Chicoutimi.* The investigation dry-docked the entire submarine fleet for seven months from October 2004 to May 2005 with a devastating effect on training and readiness. During this period, Canada's coastline lacked the observational support that the submarines were providing. The extended dry-docking after the *Chicoutimi* accident, reflects a zero defects philosophy carried beyond extremes into the realm of the ridiculous. In contrast, at approximately the same time as the *Chicoutimi* accident, a U.S. nuclear submarine hit a hidden reef while submerged; there were many injuries, and a seaman died. While the consequences for the submarine commander were professionally dire, the remainder of the submarine fleet continued to operate normally.

Moreover, the *Chicoutimi* story morphed into a renewed discussion of whether Canada was cheated in some manner by the UK in the nature of the arrangements for obtaining the submarines that also appeared hugely disproportionate to the circumstances.

The submarine saga continues, with the *Chicoutimi* still sitting in dry dock, unrepaired, in mid-2013. The other three seem to spend their lives in long term repair; for example, in 2010 two were in that status, which meant that only one submarine, *Corner Brook*, was in service in mid-2011. Unfortunately, in April 2011, Corner Brook hit bottom during an exercise, leaving it in an "extended maintenance period," prior to entering an "extended docking work period" starting in 2014. *Windsor,* which theoretically completed its extended maintenance in December 2012, reportedly needs to replace a broken diesel generator, refitting in 2013, with an optimistic operational date later in 2013.

Although some may consider the Canadian submarine force snake-bit, the dilatory maintenance and training regimes accentuate questionable operational decision making. More generally, this obsessive concern over damage or injury in military activity apparently reflects a Canadian societal view that no level of risk is acceptable. For example, in April 2005, the United States prepared a missile launch from Cape Canaveral; the missile

payload was an unspecified intelligence satellite package. Following the launch, the missile booster would splash down in the North Atlantic far away from Newfoundland oil platforms. But not far enough for then-Newfoundland Premier Danny Williams, who initially disregarded reassurances by U.S. officials that the chances were one in 10 trillion that the booster could hit the Terra Nova floating platform or the Glomar Grand Banks drilling rig. Nor was this a novel effort by the United States as there had been similar launches in the past, most recently in 1994. Not good enough: Williams first demanded 100 percent certainty, so evacuations from the rigs were planned along with demands for U.S. government compensation for lost production. Eventually the illogic of his almost hysterical position appeared to dawn on Williams—that and the unlikelihood that the oil companies would ever recoup the millions in losses they hypothesized overcame their "sky is falling" Chicken Little-ism. One wonders what happened to all those intrepid Canadians of bygone days who went forth to hunt whales in kayaks, trekked to the North Pole, or went "over the top" in World War I to assault Vimy Ridge.

A Socially Sensitive Service

All armed forces reflect their societies. If a society is harsh and dictatorial, one will not find humanitarians responsible for training and discipline. Russian military training for new enlisted men is still characterized by beatings and ritualized harassment. Historically, discipline has been brutal and brutally enforced on "the scum of the earth," reflecting Wellington's reported dictum that he was not sure whether British forces frightened the French, but they certainly frightened him.

Throughout "western" societies, the emphasis has increasingly been that the armed forces must reflect the same level of nondiscrimination and equal opportunity as other government agencies. Nevertheless, the supposed societal imperative that its armed forces reflect its racial, ethnic, and linguistic composition flies in the face of a volunteer force. If a country constructs its armed forces through draft or conscription, it can ensure that its forces reflect—down to the last decimal point—the sociology of its population. But if it is an all-volunteer force, as is the case for Canada and the United States, those who want to serve will volunteer. It may not be possible to entice, let us say, McGill and Waterloo grads to volunteer; Chinese and Islamic Canadians may not have the slightest interest in military service. Thus the suggestion by former CDS Rick Hillier in 2005 that "we want to reflect the face of Canada" was pious platitude rather than practical policy. If, of the then 61,534 regular forces and 22,280 reservists only 3.5 percent identified themselves as visible minorities (versus 13 percent in the overall population), it is a matter of personal choice, and Canadians should proclaim and champion the consequences of choice.

Nor is it always obvious that combat effectiveness is the primary objective of the Canadian Armed Forces. With the end of the Afghanistan combat commitment, the prospect of "in harm's way" combat recedes ever further into the backdrop of the possible and the armed forces have become just another ground for social experimentation. Consequently, military regulations make it a hate crime to harass a homosexual in the CF, and women are accorded the opportunity to participate in the combat arms (infantry, armor, artillery) of the Army and (regardless of the lack of space and privacy) in submarine crews. There has been no comprehensive

assessment of how these developments will stand combat stress—but then again, such an assessment may never have to be undertaken. Indeed, the 2006 death of Captain Nichola Goddard, the first woman to die in combat, was played as a national tragedy—while media comment on the suicide of another female officer was as rapidly buried as the officer herself. Canadians refuse to accept the reality that if you send people in harm's way (even nice young women such as Captain Goddard), they may be harmed.

Budgeting for Defense and Security

If 9/11 was a kick in the groin for the United States regarding defense and security, it was also at least a nudge in the side for Canada. In response, there was some impetus for security spending, both under the Liberals as well as the Conservatives. But there were, of course, special Canadian perspectives involved.

The Military as a Special Interest Pleader

Remorselessly over the decades, defense budgets and the requirements of the Department of National Defense have become just one of many players in the Canadian social safety net system. Since there is no popular demand and a feeble national constituency for defense, it is not a sustained priority; hence, the DND stands in line along with Fisheries, Infrastructure, Health, Aboriginal Affairs, and every other interest group in the federal system. It appears impossible for a Canadian defense minister to argue that the first requirement of a welfare state is the defense and security of its citizens.

Partly as a consequence, the Canadian defense minister is rarely a politically powerful figure. The defense ministry is not regarded as a stepping stone to party leadership or the position of prime minister. As noted earlier, there has been only one Canadian prime minister who has served in that role, and historically there's a dearth of Canadian politicians who have served in both military and political leadership roles. That circumstance is a stark contrast to many other parliamentary governments that have judged that the expertise to govern is well demonstrated through service in portfolios such as defense or foreign affairs. Indeed, the one Canadian prime minister who served as defense minister was Kim Campbell; she held the post for only five months, more as a "box checking" exercise to demonstrate that a woman could be defense minister. Her results as prime minister would not recommend the defense portfolio to those seeking the training track for political leadership—and no woman has followed her in the last 20 years. For others also, defense appeared to be a fast track to oblivion. In a depressing illustration of Canadian disinterest in continuity or expertise in the defense portfolio, defense ministers were defeated even when Liberals were elsewhere victorious: Doug Young lost in the 1997 election and David Pratt in the 2004 election. Another, Art Eggleton, distinguished himself by providing a research contract to a minimally qualified former mistress. And still another, John McCallum, though a brilliant economist, repeatedly demonstrated his ignorance of defense issues *inter alia* by being unaware of Canadian World War II action at Dieppe and confusing Vimy with Vichy. Even a presumably adroit choice by the Harper government, retired Brigadier General Gordon O'Connor, encountered charges of conflict of interest regarding his previous lobbyist career, which combined

with getting at cross purposes with then CDS General Rick Hillier, quickly ousted him from the DND to progressively lesser cabinet roles. The recent (until July 2013) defense minister, Peter MacKay, avoided fatal missteps despite no previous military-related experience; he projected pleasure at being with the "boys," avoided food-fights with senior military officers or DND senior bureaucrats, and flailed through the imbroglio over the F-35 purchase. Defense was also a safe place for Prime Minister Harper to park a former political rival. Rob Nicholson, who replaced MacKay, continues the standard of knowing nothing about defense or security, having switched with MacKay as justice minister.

The Liberals' Foreign Affairs Policy Statement

In April 2005, after years of consultation, redrafting, and (yes) "dithering," the laboring Liberal government Canadian foreign affairs establishment produced—a something. The 1994 "White Paper" was recognized as inadequate virtually as soon as written; indeed, senior Liberal staffers suggested that long before Prime Minister Paul Martin assumed office, a new policy statement was in preparation. It would have needed to be luminescent in its brilliance to justify the long delay, but instead it was pedestrian. So far as the armed forces were concerned, it repeated verities and platitudes about cooperation with the United States, NATO, and the UN. However, a major aspect of the policy statement was that it would require consultation and review. Instead, it was caught up in the rush to the June 2005 election and attracted barely a day of media coverage and columnist commentary.

The 2005 Defense Budget

Nevertheless, there were new billions for defense announced and projected in the February 2005 budget. Unfortunately, from its inception, the $12.8 billion looked like a "more hat than cattle" exercise; it was a sop to Cerberus rather than a commitment to serious military rebuilding. Funding was back-loaded over the five-year program and, according to analysis, $10.2 billion of the $12.8 would not have arrived until 2008-10. It was a sanguine soul, indeed, who would have bet on the armed forces seeing any significant percentage of that amount, given its dependence on continued economic good times and a Liberal re-election. Moreover, during the first two years of the projected program, there was no new money for significant combat equipment. Nothing, for example, for upgrading long-distance cargo aircraft. Additionally, the CF-18s were to be reduced in numbers and retooled, but there was no commitment to follow on aircraft.

The 2006 "Canada First" Defense Budget

The Conservative government came to office with a historically and philosophically stronger implicit commitment to national security. This greater seriousness was reflected in the budget. If at the beginning of 2001 the CF were approaching the last gurgle going down the drain 10 years later, there was a modest but real revival—although arguably tenuous.

Since 2006, the government has initiated a major re-equipment effort to rebuild the Canadian Forces after the serious defense cuts of the 1990s (termed a "decade of darkness" by former CDS General Rick Hillier). This program involved the acquisition of specific equipment (main battle tanks, artillery,

unmanned air vehicles, and other systems) to support the mission in Afghanistan. It also encompassed initiatives to renew certain so-called "core capabilities" (such as the Air Force's medium-range transport fleet of C-130 aircraft and the Army's truck and armored vehicle fleets). In addition, new capabilities (e.g., C-17 Globemaster strategic transport aircraft and CH-47 heavy-lift helicopters) have been acquired for the Canadian Forces.

- The program of capability renewal over the next 20 years aimed to:
- increase the number of military personnel to 70,000 Regular Forces and 30,000 Reserve Forces;
- replace the Navy's current support ships with more capable vessels;
- build 15 warships to replace existing destroyers and frigates;
- acquire new Arctic and offshore patrol vessels; replace the current maritime patrol aircraft with 10 to 12 new patrol aircraft;
- order 65 next-generation F-35 fighter aircraft to replace the current fleet of CF-18 fighters;
- strengthen readiness and operational capabilities;
- and, improve and modernize defense infrastructure.

But these figures are the equivalent of pie-in-the-sky projections. Getting real hardware with real bodies to employ it will be quite another question, especially with projected Great Recession spending reductions to bring the budget into balance.

Illustrative of the difficulties has been the intense controversy over F-35 purchases to which the government committed in 2010. Every element of the purchase has been attacked: sole (U.S.) sourcing; real costs over its lifetime; whether the plane was appropriate for Canadian needs; whether the zombie-equivalent Avro Arrow should be brought back from the dead. The purchase became one element of the Liberal Party's 2011 election mantra that the Conservatives wanted to spend on "jets and jails" but not on social needs. The Tory victory in the 2011 election put paid to the prospect of immediately canceling the F-35 buy (a Liberal campaign promise); however, the ongoing anguish regarding full-life funding and the decision to refer the issue to a from-the-ground-up review committee demonstrates the absence of a general Canadian defense consensus.

Moreover, facing the political imperative to balance the budget prior to the next scheduled election in 2015, the government must eliminate several billion dollars of expenditures. All federal ministries will suffer; however, with the de facto elimination of the Afghan combat spending imperative, the DND budget is clearly in the cross-hairs. Information as of August 2011 on the "Report on Transformation 2011" conducted by retired former Army commander Lieutenant-General Andrew Leslie, identified major reductions in reservists, civilian employees, and other areas still to be identified. The projection by observers suggests the DND budget must absorb $1 billion in reductions.

And some capabilities, such as Canadian submarines, go virtually unmentioned. For example, as noted above, following the 2005 accident that cost the life of one submariner, the four-vessel fleet was dry-docked for an extended period, and six years later its operational status was questionable with only

one vessel (*Corner Brook*) operational.

In Spring 2010, there was a bit of a Chinese fire drill as the head of the Navy announced ostensibly budget-driven force reductions consisting of mothballing half of the Navy's coastal defense vessels and reducing upgrades and operations of other vessels, including frigates. Supposedly, this plan was to permit concentration on other work, *inter alia*, the virtually invisible submarine force that had gone totally unmentioned in most of the laudatory speeches surrounding the Navy's 100th birthday celebration. Indeed, a cynic would see the Navy's action as a pre-emptive strike akin to apocryphal U.S. budget-cutting proposals to close the Washington Monument or Lincoln Memorial to "save money" or ending White House tourist visits to punish the U.S. public for the congressional "sequester." The reaction was predictable: a "Hell no!" from most corners of the Canadian politico-military spectrum and a hasty, we-need-to-review-further type reaction from then CDS General Walter Natynczyk. But the essential point of this kerfuffle was that all services are flailing to put the reductions monkey on the backs of other services and preserve their force structure and modernization program.

The bottom line in 2012 (before the 2013 budget announcements) ranked Canada 14th worldwide in terms of total defense expenditures of $22 billion (1.3 percent of GNP and 1.3 percent of world defense spending); 67th in terms of the total size of its armed forces (including reserves); and 54th worldwide in terms of active duty personnel. There is no expectation that these figures will endure, even with an ostensibly friendly and supportive Conservative government.

And the August 2011 renaming of certain Canadian Armed Forces services to once again be the "Royal" Canadian Navy and Air Force, is akin to lip sticking a beaver; nobody in the current forces has served under the historic designation of "Royal"—and it costs money to do the relabeling. Armed forces derive their pride from military success, clear missions, leadership excellence, unit coherence, and reliable and modern equipment; what the label on the CF package reads is of tertiary import at most.

The Essential Canadian Defense Conundrum: The Power of the United States

The integers of the Canadian security equation are simple. Canada can afford what would be an inadequate defense commitment for other countries in other geographic areas because it assumes that the United States will defend it.

In more elaborate form, Canadians have concluded that no level of defense would suffice to deter or defeat an aggressive United States. Likewise, any threat to Canada sufficient to pose a challenge to its territorial integrity would also be a threat to the United States—and the United States would be forced (in its own self-interest) also to defend Canada. Thus Canada can be inadequately defended at great expense or inadequately defended at nominal expense. It does not take much actuarial logic to conclude that the latter is more efficient. This approach may not be particularly heroic or even "fair"—but it is cost effective. And there are many, many other calls from the Canadian population for services and expenditure that can be addressed (albeit not satisfied) from monies not spent on defense. It may well be that no society can afford both a twenty-first century defense and security establishment and a comprehensive social

safety net with national health care system—and the United States may be on the verge of proving this hypothesis. For its part, Canada is an experiment in how long a country can rely upon another for its defense and still retain territorial integrity and political independence.

During much of the Cold War, Canada lived up to NATO basic responsibilities to the extent that it provided token force commitments to alliance defense, albeit far below its potential. Even that level of effort has now ceased. The regular reports comparing the Canadian percentage of GNP contributed to defense as slightly above Iceland have seemed to amuse rather than embarrass Canadians. The presence of a Canadian as chairman of the NATO Military Committee (*General Raymond Henault*, 2005-08) was less a tribute to Canada's military contribution than attributed to the reported irritation by other NATO members that the alternative candidate (a Dane) had supported U.S.-Coalition action in Iraq.

Thus while there can be a budgetary surge for defense spending designed to support Canadian Forces in Afghanistan (and alleviate some of the embarrassment associated with early equipment failures and the need to depend on the United States for more than occasional logistical support), it was a "one-off" commitment. With the end of CF combat commitment in mid-2011, the government immediately projected budget cuts extending the rationale that balancing the budget to counter the Great Recession was a national imperative presumably greater than military modernization.

These projected reductions will eliminate in short order the limited, but real, improvement in Canadian Forces capabilities. The Afghanistan incursion created a relatively unique capability: a number of highly effective light infantry battalions that are well trained, equipped, combat-experienced, and intimately familiar with U.S. military doctrine and practice. It was partly in appreciation of this new Canadian competence that a Canadian was accorded command of the NATO aerial "protection" action against Libya in 2011. Unfortunately, the Canadian infantry battalions cannot be freeze-dried and shrink-wrapped until needed; they must continue training and operational readiness exercises to maintain their capabilities. But one can be skeptical to the point of cynicism that such attention will be devoted to them.

What remains is a Canadian responsibility to demonstrate that no threat internal to Canada becomes a threat to the United States. Threats external to the North American perimeter can be relegated to the United States. But Canada must act to assure that homegrown or imported terrorists cannot use the country as a safe haven in preparation for attacking the United States. The classic illustration in this regard, of course as noted earlier, is Ahmed Ressam, "the Millennium Bomber," whose 1999 effort to blow up the Los Angeles International Airport was aborted by an alert U.S. immigration official at the border who detected explosives in Ressam's automobile. Subsequently, there have not been comparably dramatic circumstances with the "Toronto 16," largely dismissed as a gang that couldn't shoot straight, and the prospective April 2013 VIA Rail aborted terrorism event, ignored as entrapment almost immediately. Nevertheless, the murderous Khadr family was highly hostile to the United States. For U.S. citizens, the effort expended by the Canadian media over the circumstances of Omar Khadr, held at Gitmo for killing a U.S. medic in Afghanistan,

are bitterly amusing, given Canadian absence of empathy for the dead medic's wife and family. Sending him back to a Canadian "club fed" prison in September 2012 would qualify as "good riddance to bad rubbish" if it did not promise, upon his release, to provide Canadians with more arguments over the evil of (U.S.) military action.

If they want to lie awake at night, U.S. security officials can wonder over the whereabouts of the reported 41,000 illegal immigrants into Canada who were issued deportation orders as of 2008 (up from 36,000 in 2003), but have disappeared. Where are they and what are their intentions? Can anyone blithely assume that they simply seek economic self-betterment? Likewise, the repeated reports by the former auditor general regarding the insecurity of Canadian passports and the weaknesses of Canadian security at every level leave those south-of-the-border observers with gritted teeth. It is not that the United States lacks security failures on multiple levels. But the United States cannot be forced to address remedial failures in Canada as well as within its own territory.

Canada and U.S. Politico-military Structures

The United States and Canada have an intense and detailed political and military relationship extending for more than 70 years. Following are some of the elements of that relationship.

Ogdensburg Agreement and the PJBD

During World War II, essentially the UK passed the baton for the defense of Canada to the United States—and reportedly somewhat miffed British Prime Minister Winston Churchill in the process. This move was epitomized by the Ogdensburg Agreement, which was the result of an August 1940 meeting between Canadian Prime Minister Mackenzie King and U.S. President Franklin Roosevelt. However, both feared that England was in extremis under Nazi attack and new defense arrangements would be vital. The agreement inaugurated closer Canadian-American military cooperation and established the Permanent Joint Board on Defense (PJBD), which became the senior advisory body on continental security. The main purpose of the group continues to be providing policy-level consultation on bilateral defense matters. Periodically the board conducts studies and reports to the governments of the United States and Canada.

Currently, the board consists of Canadian and American military and civilian representatives, with small groups in each capital to support its activities. It is co-chaired by a Canadian and an American, meets semi-annually, alternating between each country and military services, and is composed of diplomatic and military representatives. Its meetings have served as a window on Canada-U.S. defense relations for more than seven decades during which time the board has assisted in coordinating bilateral military relations.

The PJBD has examined virtually every important joint defense measure undertaken since the end of World War II, including construction of the Distant Early Warning radars, the creation of the North American Air Defense Agreement (NORAD) in 1958, the binational operation of the underwater acoustic surveillance system and high-frequency direction finding network, and the decision to proceed with the North American Air Defense Modernization program in 1985.

Nevertheless, one must recognize that

the PJBD no longer carries the weight it once did; indeed, it verges on the pathetic. The first U.S. chairman was Fiorello H. LaGuardia, then mayor of New York City and a significant national political figure. In mid-2011, almost three years into the Obama administration, there still was no permanent U.S. chairman, and it was not until the first PJBD session in 2012 that a U.S. chairman appeared. Moreover, without characterizing the credentials of the current incumbent, previous recent U.S. chairmen have been decidedly secondary figures—a characteristic matched by Canada. Neither capital has pushed for "A"-level representatives as chairman and, certainly in the U.S. case, the delay in appointing a chairman was risible to the point of insult. Essentially, the PJBD continues more as a totem of the ongoing politico-military relationship than a vital component of it; eliminating the organization would be interpreted as a negative bilateral "signal" rather than just the rational termination of an antiquated bureaucratic artifact. So the sides continue to grope for semi-meaningful projects and studies to occupy the board.

NATO

Canada has been a NATO member since the creation of the Alliance, joining the United States more as an illustration of North American solidarity than in a real belief that its military contribution to NATO would be determinative. Nevertheless, during the height of the Cold War, it fielded a well-regarded combat brigade in Germany (the author visited it during the annual "Reforger" NATO maneuvers in the late 1970s) as well as an air squadron, but Canada's military contributions never matched what its GNP potential indicated. Reflecting this minimalism, all Canadian combat forces were out of Europe by 1991—cashing the peace dividend. Had Canada not participated in the NATO effort in Afghanistan starting in 2001, there could have been a serious argument that the Alliance was no longer relevant for Ottawa—complementing the Alliance observation that Canada contributed little at Brussels. As it is, Canada spurned the NATO Secretary-General's 2009 request to extend its military role in Afghanistan; its continued presence for training Afghan security and police is useful albeit marginal. Nevertheless, even this level of performance provided Ottawa with some "corridor cred" at NATO headquarters reflected in a Canadian being accorded command of the 2011 NATO "no fly" exercise over Libya. Nevertheless, today, Canadian interest in and concern for European defense is peripheral, and Canadian commitment to future "coalitions of the willing" will be contingent upon prior UN authorization. Indeed, even continued NATO membership is somewhat in question as Canadian authorities bristle at NATO urgings for military upgrades while Ottawa sees no prospect of a revanchist Russia roiling European waters.

Defense Industrial Cooperation

A sometimes forgotten element of bilateral civil-military relations is defense industrial cooperation. Just as U.S.-Canadian industrial cooperation is closely integrated, e.g., auto manufacture, so also is defense production. Canadian firms can bid on U.S. military contracts and vice versa. A significant portion of the Canadian military equipment inventory is U.S.-built.

A problem in recent years has been the U.S. requirement that workers in certain projects pass security clearances, even if not directly engaged in production. This requirement generated privacy concerns for Canada,

and has limited some of its defense contract opportunities. The other side of the ledger is Canadian reluctance to buy off-the-shelf military equipment (particularly naval craft) if there is any conceivable possibility that they can be Canada-built (regardless of excessive costs in the process). Even the most serious military needs (replacements for ancient Sky King helicopters, rusted out naval vessels, a supply vessel) are indefinitely delayed for essentially political reasons. The decision to purchase U.S. F-35s has generated storms of still continuing protest and criticism from opposition parties, forcing detailed reconsideration of parameters for a follow-on fighter, despite the financial offset benefits of Canadian participation in the global F-35 production effort. This attitude prompts the impression that Canada regards its armed forces as a jobs program or a political football rather than vital for national security and international relations.

NORAD

As the most obvious illustration of bilateral military cooperation, U.S. and Canadian military forces have cooperated since 1958 on continental air defense within the framework of the North American Aerospace Defense Command (NORAD). One can argue that the Canadians made a virtue of a necessity; the United States was going to defend itself against any Soviet bomber attack over Canadian air space with or without Canadian agreement. NORAD has given Ottawa a voice in the process.

Administratively, NORAD is a joint command with a U.S. commander and a Canadian deputy. Agreement by national capitals is required for the appointment of the commander and the deputy. The military response to the September 11, 2001, terrorist attacks in the United States both tested and strengthened military cooperation between the United States and Canada. The NORAD Agreement that entered into force on May 12, 2006, added a maritime domain awareness component and is of "indefinite duration," albeit subject to periodic review. The "indefinite" nature of the agreement ended the political reindeer games over renewal that Ottawa tended to play when unhappy with other aspects of the bilateral relationship. Ottawa "sent messages" with the length of the NORAD Treaty renewal; it exercised "leverage" with picky-point revisions of treaty language. This tiresome silliness reflected the reality that Canadians were willing to sacrifice NORAD effectiveness for a little politicized shin-kicking.

But the problem is more basic: NORAD is also less a vital element of bilateral defense and security arrangements than an artifact of that relationship. Thus the famous Colorado mountain fastness housing NORAD against nuclear attack has been mothballed with operations relegated to presumably more efficient but less dramatic nearby facilities.

Although serious people do serious work at NORAD with the objective of securing North America against a wide variety of threats from states rogue and regular to airborne terrorists, in Ottawa the issues are political rather than security. Instead of having been able to use the impetus of a (never taken) no-cost-to-Canada missile defense participation decision to modernize the NORAD agreement, the sides struggled to redraw their line-and-block organization charts to see just how Canada fits and what "need to know" restrictions will limit the participation of Canadian personnel. The military reality is that technological advances permit the United States to manage continental defense without Canadian

participation; NORAD is nice-to-have rather than vital. Indeed, one U.S. senior military officer at NORAD reportedly said that, on balance, Canada was just about paying the annual phone bill. Perhaps NORAD's most lasting responsibility will be tracking Santa Claus on Christmas Eve.

A Summing Up

Canadians say that the world needs more Canada. To be sure, the globe can certainly absorb a substantial number of additional states that are wealthy, technologically advanced, and unthreatening—saying "please" and "thank you" in foreign affairs.

Indeed, fortunate Canada.

A country defended on three sides by fish and with a benign neighbor on the fourth.

In conclusion, Canada—following its 1759 absorption into the British Empire—has passed a remarkably unthreatened 250 years. Some Canadian nationalists like to recall U.S. cross-border assaults during the Revolutionary War and the War of 1812. But while, indeed, U.S. military forces moved north of the border, they were not attacking "Canada." Rather they were attacking England, but it was easier to march to Montreal, Quebec City, and Toronto than to London.

Perhaps the maxim for Canadians remains that basic rule of politico-military diplomacy: make your neighbors into your friends—and keep your enemies far away.

9 SCENARIOS FOR A RE-ORGANIZED CANADIAN FORCE

Canadian Forces may not be the best small army in the world as some cheerleaders have trumpeted post-Afghanistan (the Israel Defense Forces, for one, would beg to differ), but it is now better than it will be as Great Recession budgets play out.

In mid-2011, a longtime Canadian political-military official privately observed that Canada must decide what kind of military it wants and what it wants to pay. It simply is not possible to maintain a scaled-down version of the U.S. armed forces.

That conclusion is and will be the maypole around which the Canadian Armed Forces dance. (Recently renamed, both the abbreviations "CAF" and "CF" continue to be used interchangeably.) But the CAF future appears grim.

Scenarios for the Canadian Forces

Given the reality that Canadian Forces probably will not exist in a militarily significant capacity within the foreseeable future, what manner of military force should a foreign or American observer contemplate for Canada? And by "militarily significant," one means a personnel and equipment structure that would encompass a force on the level of that existing prior to the end of the Cold War: at least one modern combat brigade (not the now apparently forgotten "peacekeeping" brigade highlighted in the 2004 Liberal election rhetoric). Such a unit would have a full assortment of modern, high technology equipment to include armor, artillery, and helicopter support with air transport to move that brigade quickly any place in the world. The CF would then incorporate a "blue water" navy including submarines; an air force with modern fighter aircraft (F-35s, for example); and an extensive, well-trained and equipped reserve force.

But, as suggested in the previous chapter, such a force is as unlikely as palm trees on the streets of Yellowknife. What then are the options?

Over the past several years, there have been studies by the stack from trained professional experts and qualified military analysts. The proposals have come from all directions in the political spectrum. Many of them can be characterized as "viewing with alarm" and offering particularistic solutions for Canadian defense and security. They include generic options that can be summarized as follows without the descriptions or labels necessarily attributable to any particular source:

No Canadian Military

This position, by and large, comes from the left of the political spectrum. It has longstanding Canadian pacifist roots (for example, Desmond Morton) and a persistent semi-legitimacy starting with *Canada 2000* presented immediately after the 1993 Liberal election (Janice Stein and others). It is the *bête noir* of those for whom a strong Canadian military is a baseline for being Canadian. To be fair, the proponents of this position do not propose the total elimination of the Canadian Forces and every individual wearing a military uniform. They are not proposing a Canadian Armed Forces along the lines of forces in Iceland, Costa Rica, and Panama, which are all but totally disarmed. They would simply create circumstances where the Canadian Forces would be incapable of any activity outside of light peacekeeping and street cleaning following heavy snowfalls in Toronto.

Under this scenario, the Canadian Forces would eliminate most of its navy either by attrition (just continue the current "rust out" policy), mothballing, or sale and become essentially a "brown water" fleet. There certainly would be no submarines or resupply ships, and its vessels would concentrate on coast guard rescue, fishery protection, and anti-smuggling. High performance jet aircraft would be eliminated; a certain number of transport aircraft could be retained but dedicated more for emergency domestic movement than for foreign deployment (for example, the newly purchased C-17s can always be rented to countries with emergency need for heavy lift). Helicopters would concentrate on air and sea rescue, and there would be no requirement for combined arms interoperability between the air force and navy. The army would probably retain one "traditional" anglophone and one francophone unit, say the Princess Patricia's Canadian Light Infantry (PPCLI) and the Royal 22e Régiment "*vingt-deux*" (also known as the "Van Doos"), as well as the secret, highly trained, special antiterrorism Joint Task Force 2 (the U.S. Delta Force equivalent). A military reserve force would be nominal; it would devolve into pre-war "social" militia units scattered throughout the country for those antediluvian males who want to "play soldier" and wear "dress uniform" for equally irrelevant holidays such as the Queen's Birthday or "Dominion Day."

A substantial benefit would be the reduction in defense expenditures, perhaps in absolute terms as well as in the relative percentage of the federal budget. Canada would de facto become a northern Costa Rica or a western Iceland in real military capability. Nothing would be expected of the Canadian Forces, and hence nothing would be asked. As an ancillary benefit, such a repositioning of the CF would resolve the issue of the degree to which Canada should participate in "peace

enforcement" exercises—the country simply could not do so.

The negative side poses a national character and international image issue question. To what degree can a country contract out its national security and defense to another while remaining fully sovereign and independent? How do the citizens of Panama and Costa Rica feel about their implicit dependence on the United States for national security? (It has been a Don't Ask, Don't Tell question for these countries.) Nevertheless, it has always been puzzling to Americans that those Canadians most hostile to the United States are those who are the most eager to reduce defense capabilities—and thus put Canada even more deeply in implicit thrall to the United States for its security and posit Canadian existence on the continuation of a benign United States.

North American Perimeter

Perhaps one step above "no military" would be a Canadian force that focused solely on the North American perimeter, in close conjunction with the United States and reflecting the original objectives of the PJBD and the 1940 Plattsburg agreement. Canada would eliminate its force projection plans; there would be no "blue water" navy and no concern for long haul or heavy aircraft lift. If Canada were to participate in exercises such as tsunami relief or peacekeeping, it would hitch a ride with U.S. military forces or rent cargo planes or ships as available. Alternatively, the recently purchased C-17s and C-130s (if not sold) could be retained and rented as emergency heavy lift in the manner that the Russians have done with their Antonov and Ilyushin heavy cargo aircraft.

The Canadian Air Force and Army would concentrate on internal security. The Air Force would continue its close cooperation with the U.S. Air Force through NORAD. The Army would emphasize force coordination with U.S. army units, assuring *inter alia* an alert presence in the Arctic. There would be no need for new fighter aircraft or armored forces. CF-18s could be life-extended to match the 50-year-old Sea King helicopters. Well-trained light infantry units capable of rapid deployment and internal security would be the primary Canadian Forces combat requirement. The residue of the extended Afghanistan experience has generated significant numbers of trained, combat-tested, light infantry—a category of personnel always in short supply, which conceivably could be available for UN-authorized peacekeeping operations (with compensation from UN coffers on a "rent a battalion" basis).

The argument in favor of this approach is that the United States and NATO do not need major Canadian naval, air, or infantry units in their military planning. They don't plan for any such forces now—primarily because none exists beyond tokenism. Any alliance-related threat within Europe would either be an immediate challenge and have to be addressed by forces in being or take so long to develop (a slowly cooling Cold War II) that it would be acceptable for Canadian participation in European defense to take years before it could provide a useful contribution for NATO defense.

Under this logic, what the United States would desire from Canada primarily is its help in securing borders with key attention to antiterrorism; this defense option would perform that requirement at low cost. The approach may be making a virtue of necessity. Regardless of the 2006 "Canada First" budget projections, given the Great

Recession-induced budget cuts, it may be all the Canada Forces will be able to accomplish when funding actually arrives. Indeed, the general conclusion is that the end of the Afghan excursion will leave the Canadian army so exhausted that it will need some time (of undefined duration) before a significant combat force can be regenerated. Such an approach would also have the added virtue of making it unnecessary to expend the resources to repair or replace the equipment burned up in Afghanistan action.

The proposal is, of course, also an attempt to get credit for what Canada absolutely must do in any event, to wit, assure the United States that threats will not originate in Canada (or pass through without notice).

The Peacekeeping Paradigm

Canadians occasionally leave the impression that they invented "peacekeeping." Indeed, for decades following the commitment by Prime Minister Pearson to assist in the stabilization of the Suez Canal, stemming from the British/French/Israeli action in 1956, Canadians were in the forefront of every exercise around the world that could be characterized as "peacekeeping." To be sure, this commitment was useful, practical work that saved lives and assisted in maintaining peace. And Canada was in it for the long haul. The classic case of an extended commitment was the Canadian battalion in Cyprus. Stationed along the "green line" separating Greek and Turkish Cypriots from the beginning of intercommunal conflict in 1964, Canadian forces remained—at considerable cost and a "tied down" professional unit—until 1993.

Another view, however, is that Canada's preeminence as a provider of "peacekeepers" was unique to a time and circumstance directly associated with the Cold War and now is antique. If global politics required a balance of Eastern and Western forces, Canadians were the least objectionable NATO (or Western) force in Moscow's eyes. That political point, coupled with residual military competence by Canada's professional military, made them effective peacekeepers. For at base, an effective peacekeeper is not a policeman in a khaki uniform, let alone an adult Boy Scout, but first and foremost a trained soldier.

During the past several years, Canadian forces have still been frequently deployed overseas, albeit not always as prominently or as effectively (re: East Timor in 1999) as was the case in the past. CF have served productively in Haiti in 2004 and 2010 (earthquake relief) and more prominently in Afghanistan (first in Kabul and then in Kandahar) in what must be depicted as vigorous "peacemaking" as part of NATO stabilization and pacification forces from 2002 forward. The result of these commitments subsequently was advertised as the equivalent of force exhaustion for the units involved, engendering the strong recommendation that no near-term deployments be made for those infantry or reserve elements most likely to be involved carrying out the end of Canadian Forces military commitment in Afghanistan from July 2011 onward. And indeed Canada has not engaged in significant peacekeeping since the end of the combat Afghan commitment. As of mid-2013, as far as UN deployments were concerned, Canada had dropped from first place in 1993 with close to 5,000 deployed personnel, to fifty-first with approximately 200 Canadian military and police operating under UN aegis.

Nevertheless, a scenario for the Canadian

Forces that emphasized "peacekeeping" would require its own decision structure. Would Ottawa ever act unilaterally in peacekeeping? Would Canada only participate in UN-directed or UN-authorized operations? Would it continue to join NATO or "Coalition of the Willing" style military efforts? The differences are not purely ones of political choice. Were Canada to determine that it will only operate under UN-sanctioned missions, the requirement for combat proficiency declines distinctly. Very few, if any, of the anticipated UN-related crises need anything more than marginal combat skills. Indeed, a couple of proficient combat infantry battalions could probably have prevented the Rwanda genocide and stopped the killing (whatever one labels the body count) in Darfur—or, for that matter, rid the world of the thugocracy in Zimbabwe. Third World, semi-colonial military exercises along the lines of those performed by British imperial forces in the nineteenth century (see Byron Farwell's Queen Victoria's Little Wars) can still be done on the cheap. Indeed, French Foreign Legion troops have just so demonstrated in Mali, and Western "boots on the ground" rather than just air cover could have resolved quickly the protracted effort to oust Gaddafi.

However, if there is a continued desire to commit to NATO or U.S.-led peacekeeping, where the participants might get their hands "wet," the Canadian Forces would need to retain forces at NATO competency levels, if not at the full technical quality of U.S. forces.

For what it is worth, many CF members view with disdain and despair the prospect of a return to peacekeeping as one step above irrelevance, and would resist it vigorously. But at the same time, DND officials have tired of NATO importuning to increase defense spending. They consider NATO more a nagging nanny for a Europe that no longer faces threats (or threats Europeans should be able to address without extra-continental assistance). They are pushing back, telling NATO planners that addressing Canadian economic problems are more important than hypothetical military threats.

Nevertheless, at this juncture, Canada appears to be backing into a force capability that would limit its actions to the "light peacekeeping" of UN-authorized action. It was noteworthy in April 2010 that when the UN suggested that Canada supply a senior Army officer to lead its peacekeepers in the Congo, Ottawa smartly declined—probably viewing it as a camel's nose effort to engage Canada in a long term "heavy lifting" exercise in a politico-military jungle swamp. Nevertheless, if Ottawa takes this course, which hypothesizes reduced CF capability, it should be through conscious decision rather than in a fit of absent mindedness.

A Niche Market Military

As the cost of a twenty-first century military (and even maintaining a late twentieth-century military force) has risen, various armed forces (and particularly those in NATO) have raised the possibility of specializing in selected categories of competence rather than attempting to be cutting edge in every combat and noncombat military area. The proposal is a corollary to the "burden sharing" argument advanced within the NATO alliance during the height of the Cold War, with the United States arguing that NATO members should make greater contributions in selected areas identified in an annual "report card" of their armed forces. Just as all NATO members did not need to develop a nuclear capability if they

were confident of a U.S. nuclear guaranteed "umbrella," NATO members might begin to concentrate and develop special competence in specific areas upon which the entire alliance could then draw.

In one small example, the Germans developed a specialized chemical and biological weapons testing vehicle. On a larger scale, NATO purchased as an alliance a number of Airborne Warning and Control System command and control aircraft. And even the United States has elected to provide specialized elements for selected missions, notably, logistic support, communications, intelligence, and "heavy lift" cargo aircraft rather than a full on-the-ground combat presence. Such was evident during most of our "lead from behind" 2011 support of action against the government of Muammar *Gaddafi in Libya.*

Thus, if Canadians realistically determine that they cannot, in any cost effective manner, obtain a full range of military capability, they might ask themselves serious questions such as:

- Is an expensive advanced fighter replacement for the CF-18 (of the F-35 Joint Strike Fighter ilk) necessary for the defense of North America against foreseeable threats? Despite the ostensible commitment to purchase the F-35 in July 2010, repeatedly reemphasized in subsequent government statements, it is hardly engraved in stone and now is under comprehensive review.

- What do submarines add to Canadian defense capability? Is their interoperability with U.S. naval forces and the provision of training for U.S. conventional sub-hunters necessary for the bilateral defense relationship and sufficient rationale to retain the subs? Although after long delays (in mid-2013 one of the four is now fully operational), they have clearly been fragile vessels functioning as "dry dock queens" and training vessels. Projected future costs should prompt rethinking of their utility balanced against other Navy requirements.

- Does Canada need "heavy lift" of the C-17 or even the upgraded C-130 level? Is it important for Canada to be able to deploy *Disaster Assistance Response Team* more quickly than was possible after the 2004 tsunami? (In contrast, DART deployments to Pakistan in 2005 and Burma in 2008, went more smoothly.) Is the increasing difficulty in securing heavy lift aircraft, e.g., Soviet-era Ilyushins, a sufficient stimulus to continue the financial commitment of maintaining a C-17 fleet? Or should Canada be content to seek contracts for heavy lift (or cooperate with the United States for joint deployments) on an *ad hoc* basis?

- Does the Navy need warships at or beyond its current numbers? The projected costs for destroyer replacement and support vessels are astronomical. Should it purchase heavy transport ship(s)? Should it downscale to focus solely on coastal defense/security and drop the capability for force projection into areas such as the Persian Gulf or antipiracy action off Somalia? Should it end participation with the U.S. Navy in its current "Pacific pivot" preoccupation?

- Does the Army need a modern tank? Despite its apparently successful use of second-hand Leopards in Afghanistan, does the Army need tanks at all or would an armored gun unit such as the "Stryker" and reinforced personnel vehicles suffice for the operations contemplated by the CF?

- Should the CF concentrate on high-quality light infantry battalions for specialized roles and international missions—that is, create multiple versions of the PPCLI or the "Van Doos" for rapid deployment to world problem areas? Its Afghanistan experience has cycled upwards of 40,000 personnel through the combat zone (presumably some of that number deployed multiple times); this is a rather rare potential military asset. Such an option might be less expensive than purchasing F-35s or maintaining C-17s, but personnel costs are annual and the training and equipment necessary to assure that these infantry battalions are "world class" would not be cost free. Regrettably, the current light infantry cannot be freeze-dried and shrink-wrapped to await a potential requirement in 2020.

- Abstractly, one could make an academic case for any-or all-of these structures for the CF, but a judgment should be undertaken as a conscious choice—and in close coordination with the United States. Adopting the niche market approach, however, would mean the permanent elimination of the military capabilities being dropped. There is, for example, no way to recover the capability to operate submarines once a sub fleet is dismantled. And, indeed, even supporters of the original purchase of the four Victoria class UK submarines now have second thoughts as the effort to retrofit and upgrade the vessels (let alone convert the subs to use existing torpedoes) has been endlessly frustrating. The combination of accidents, poor maintenance, extended repair and upgrades has clearly sucked up disproportionate amounts of maintenance funding for minimal operational capability. Is there a reasonable chance that the "sunk costs" over the past 15 years can be recouped with real operational effectiveness? Or is it time to stop throwing good money after bad?

Nevertheless, one point is essential to remember. Just as Canada no longer has heavy bombers or an aircraft carrier or production capability of "Arrow class" fighter aircraft or perhaps even the design capability for future warships following the elimination of the design team for City class patrol frigates (as noted by military analyst Desmond Morton), eliminating particular military capabilities would be permanent.

The Reserves

Regardless of the type of defense force that is ultimately accepted, Canada will need to examine its military reserve structure.

The concept of a "Minuteman" citizen soldier may have been a viable defense philosophy in the eighteenth century, but is significantly less valid today. At the birth of the United States (and in Canada during the War of 1812), the farmer with his musket who knew his neighborhood and local terrain could rally with neighbors in a rough-and-ready defense against an invader. Usually such militia was virtually ineffective (a "rabble in arms"), unless supported by "regular" trained forces, but such a defense philosophy fed the political fantasies of citizens—and had the additional advantage of being cheap. If the Minuteman militia could defend the country, there was no need for any beyond the barest numbers of professional soldiers, who were suspect as mercenaries in any event.

As Canada anticipated being defended by British forces, the requirement for significant domestic forces was limited. Canadians with interest in military service were part of the

British army. To be sure, there were local militia units, sometimes with British royal patrons (hence the "Princess Patricia's") and honorary British colonels that persist into the present. But it was and remains hard to take such units seriously; they remind one more of rugby or soccer clubs than organizations of military professionals.

Although the concept of a defense force that is totally dependent on a citizen militia has evaporated, the need for an effective reserve force remains. Again, the basic issue remains expense. While one may argue about the politico-social utility of giving the citizen a stake in the defense of country, any professional soldier would prefer to have a fellow professional at his side rather than a partly trained amateur no matter how eager or motivated. But professionals are expensive and reservists are relatively cheap. At their best, reserves can immediately transfer their civilian expertise into military needs. Thus an emergency room surgeon can become a battlefield MASH officer. A long distance trucker can operate a 2.5 ton truck. An airline pilot can fly a comparable military cargo plane. A civilian policeman can work as an MP. But there really is no civilian equivalent to the infantry "grunt" whose military role is to work within a team to kill other people without personally dying in the process.

Reserve strength in 2013 was reported at approximately 27,000 "paid primary" reserve forces including 4,600 Canadian rangers based in the North, which was the objective for the 2006 Canada First defense plan. Of course this statistic does not address combat effectiveness, which is a constant problem with reservists (as well as regulars) leaving the force almost as fast as they are recruited and trained. What reserve force strength will eventually emerge from the budget reduction? The answer is simply unknown. The Report on Transformation 2011, released in September 2011, hypothesized reducing the number of full-time reservists to the baseline of 4,500 and making them part-time workers. Such action is still hanging fire as are most of the fiscal-related decisions affecting the Canadian Forces.

Assembling a reserve unit that can operate independently or coordinate effectively with a regular force is difficult and time consuming. The most noteworthy U.S. example is the Gulf War I effort to bring the "round out" brigade of the 24th Infantry Division to full combat effectiveness. This unit, based in Georgia near the 24th with which it was supposed to coordinate and work closely, was called to active duty at the beginning of the Gulf War I crisis following the Iraqi invasion of Kuwait. The brigade was fully manned with equipment comparable to that of the 24th; its leadership was motivated. However, it was unable to meet requirements and an independent brigade was substituted for it when the 24th deployed. Eventually, all of the senior brigade officers and battalion commanders were replaced, but despite repeated training at the National Training Center in Fort Irwin, California, the brigade was not regarded as combat ready when the war was fought and concluded in February 1991.

Consequently, what Canada has done is repeatedly dip into its reserves for volunteers or very small units for deployment and construct units for "peacekeeping" exercises that are not standard units, but a pastiche that has not operated together as a unit. The unit commander can only hope that it will not be stressed by real combat, wherein the lack of training and coordinated teamwork would

prove fatal. It was a matter of considerable good fortune, combined with excellent commanders and availability of air and artillery support, that Canadian losses in Afghanistan were never catastrophic. During this effort, reservists reportedly constituted up to 20 percent of the Canadian contingent.

Unfortunately too many of Canada's reservists are still youngsters out on a lark and looking to make a few dollars while playing soldier during the summer. It is not a situation comparable to that which has prevailed in the United States, where the service reserves and the National Guard primarily are drawn from soldiers who have completed an active duty obligation. The United States has moved from reservists who were "a one-night-a-week and two weeks in the summer" casual soldiers to a post 9/11 component of the "total army" that is frequently called to active duty.

Thus the addition of a few more bodies—even a substantial reserve expansion—will not fix Canada's reserves problem. There are two obvious difficulties: (1) a Canadian reservist can refuse to be called up; (2) on the other side of the ledger, if a reservist does respond to a call up, his job is not guaranteed by law to be available to him upon his return. Both of these restrictions must be eliminated for Canada to have serious reserves of armed forces.

As a result, the reservists participating in CF Afghanistan deployments were volunteers primarily motivated by pay and benefits. But these observations may be irrelevant with projected reductions—not expansions—of Canadian military reserves.

Avoid the Risible

As a subset of military scenario examination, every country has to remain in the realm of the possible—politically, socially, and economically. Thus no western democracy is considering the old paradigm of "universal military service." Nor would a proposal for a very substantial CF increase that required a military draft be viewed as other than an "Air Farce" episode in Canada.

But every so often an outside observer sees proposals that stimulate the question, "Is this serious?" Such was the case in mid-2003 when there was a flurry of military interest around building Canadian aircraft carriers. The momentary spate of commentary on carriers reflected the excellence of Canadian military thought; it was a product of long tradition and education at fine military staff schools and war colleges around the world as well as in Canada. It reminded one of the intellectual effort expended during the Mulroney era on building a fleet of Canadian nuclear submarines; logical, lucid, and ultimately irrelevant—really irrelevant from inception.

That is not to say that Canada could not build, equip, staff, and operate aircraft carriers (plural because political realities would necessitate at least one for each coast). Canada is a first world, high tech, fiscally viable nation, capable of building any military or civilian product that it has the national desire and will to produce. Nuclear weapons, intercontinental ballistic missiles, cruise missiles, stealth aircraft, long-range bombers, precision guided munitions, and heavy armor are all within the capabilities of Canadian industry and technology. Indeed, Canada is a nation that could commit itself to put a Canadian on the moon (not as a payload specialist hitching a ride on a U.S. or Russian spacecraft) and do so.

But that would not be the Canada of 2013.

Let us examine the aircraft carrier trial balloon.

What would be required for a Canadian carrier, let alone a carrier fleet, or any comparable commitment such as noted above is not a feasibility study or a design team or a shipyard or any techno-financial combination. What would be required is a domestic attitudinal transplant reflecting virtually a 180-degree reversal of current political views.

For example, an aircraft carrier is immensely complicated. It really is the cherry on the ice cream soda of naval power. It is the culmination of how a maritime state has decided to project power at distances beyond those reached by land-based aircraft. Unfortunately a carrier by itself is fatally vulnerable. Without a comprehensive escort-screening-anti-sub missile defense group, a carrier is an instant invitation to send several billion dollars to Davy Jones' Locker in the first minutes of serious combat. Thus each carrier requires an associated protective force of combat and logistical support vessels. All of this force is designed to permit a rather small number of aircraft to attack targets that cannot be otherwise attacked. Thus, the first question for Ottawa would be, "What would we do with an aircraft carrier?" Where would Canada be projecting this power and on behalf of whom? Would it be built to operate only in conjunction with the carriers of another nation, such as the United States (and thus not need the full panoply of combat and logistic components in a carrier battle group since the United States would supply them)?

While personnel strength depends on size and capabilities, a figure of 1,600 (the manning level of Soviet *Kiev-class* VTOL carriers) might be a reasonable manpower estimate. Double that number for a second carrier with perhaps "blue" and "gold" crews for each carrier so that the vessels could be kept at sea longer. Even half those strength estimates would presumably require a massive increase in naval personnel. In 2013, Canadian active duty naval strength was 8,500 plus 5,100 reservists (a funded level of 4,000 reservists). Reportedly, it was 1,000 below authorized active duty strength—many of them in high tech specialties.

Moreover, much of the technical and IT expertise required to operate a carrier is in short supply, not just in the military but also in the economy. The skills demanded of carrier pilots are the highest of any flier; there is nothing more dangerous than landing a jet plane on a carrier at night—unless it is a nighttime landing in bad weather. And those who hypothesize that the landing of vertical takeoff and landing aircraft would be easier may be daunted by the crash records of Harrier jets and the testing of Osprey helicopters. Eventually the United States got it right, but fatalities in the process were not trivial (and Canadians are preternaturally allergic to any military personnel deaths). As the last Canadian aircraft carrier was scrapped in 1970, that means that no one now on active duty has any of experience in carrier operations.

It is that kind of free-form thinking that would convince the average Canadian citizen that the military was into a "toys for boys" fantasy land seeking to play real world video games at vast taxpayer expense. Indeed, the carrier concept was viewed as so ridiculous that when the Conservatives during the 2004 election suggested that the defense budget include a major cargo transport with the capability for helicopters to land, the Liberals derided what was a perfectly arguable option for force deployment logistical support as proposing an "aircraft carrier."

The Budget Imperative

Money is the mother's milk of everything. Looking at the commitment to bring the federal budget into balance before the next election, presumably in 2015, Canadian observers hypothesize that at least $1 billion will be extracted from the military budget. Although in mid-2013, senior officials continued to offer oral service to "Canada First" commitments (and even expanding capabilities), such sanguine desires run onto reality rocks. Career professionals skeptically await the reductions hammer to drop. Here are several areas for possible curtailment, some of which were identified above:

Stretching out equipment purchases

Such is the standard approach for militaries across the globe. It is inefficient and ultimately more expensive, but it saves short-run scarce funding in hopes (or prayers) that later funding will be more readily available. Canadians may be looking at the ambitious projected naval acquisitions (frigate replacement, support ships, icebreaker) as bridges too far for the current budget.

Cancelling equipment purchases

Again the gimlet eye of accountants will be focused on the wide array of projected equipment purchases. Is a new main battle tank a good fit with light infantry if it is not expecting to encounter improvised explosive devices? A major rocket launcher system? A light assault vehicle? An icebreaker? What equipment purchase (re)balance is necessary between CF military services when the Army received the bulk of upgrade funding during its Afghanistan decade?

Ending programs

It may well be that despite its extended history of submarine operation and the acquisition in 1998 of four Upholder (now "Victoria") class British submarines, Canadians will never get the subs to operate as they were envisioned. Indeed, throughout the years, the subs have rarely been in full operation—and frequently most or all of them have been out of commission. The announcement in April 2013 that three would shortly be in service simultaneously is beyond "once in a blue moon" rare—and proved inaccurate. A variety of expensive, time-consuming activities (retrofitting torpedo tubes to use Canadian torpedoes) have severely limited operational availability. The impression has gradually, indeed reluctantly, grown even among initial supporters that the subs may be lemons—simply not good value regardless of their limited acquisition expense. Should Canada deep six (so to speak) its submarine program and get out of the business?

Reducing personnel

Instinctively, one might think that equipment is expensive but soldiers are cheap. Such judgment might have been the case when draftee conscript armies could be paid a pittance and simply dismissed to return to civilian life at the end of their service. All-volunteer military forces, however, are expensive. Recruiting personnel for 20- to 30-year careers competes with civilian professions (without the deterrent of "unlimited liability" endangering their lives). So the armed forces must budget not just for present day salaries, but also for the amenities required to maintain soldiers' families and pensions following retirement. As returning to conscription is beyond imagination, Canada

must continue to balance its reserve force (and currently there are approximately 11,000 full time reservists) with active duty personnel at approximately 68,000. One can easily expect draw downs in what is already a small force compared with Canada's population of over 34 million.

The F-35 Fighter

From one optic, the F-35 is a standard, next-generation replacement for aging F-18s that are running out of lifetime for their airframes. Such is a normal albeit expensive development in twenty-first century armed forces and usually directed by military requirements. Thus, for most professionals, F-35 acquisition is the ticket for participation in high-tech aircraft operations for the twenty-first century, as stealth capability will be necessary for combined operation with other NATO members. Cost figures remain dodgy, however, and despite the government's May 2011 election victory implicitly dismissing Opposition clamor against "jets and jails," a reduced if not eliminated F-35 force could be a budget consequence. The cost issue is not inconsequential; it is a rare construction program or acquisition that comes in at budget and on time. Assuming the Canadian commitment to the F-35 continues, one can be sure that the Opposition will make another run at F-35 costs during the next election and belabor the program throughout the intervening years. The forced review of Canadian requirements, driven by costs and confused government explanations, may ultimately re-endorse the F-35 purchase, but will not end the debate.

The challenge for resisting defense budget cuts is that CF *returned* $1.5 billion in unspent funds in 2010 (and also returned funds the previous year). It remains an inexplicable circumstance. Although there are explanations, there are no excuses for failing to spend appropriated funds. The impeccable logic from budgeters is that "If they didn't spend it, they don't need it."

Where Is Our Bilateral Defense Relationship Headed?

Prior to the Canadian commitment in Afghanistan (examined below), there was a steady decline in the Canada-U.S. defense relationship. Although the forms persisted and the organizations met and coordinated, the real world commitments were increasingly hollow. Canadian refusal to join the "Coalition" in action against Iraq was termed a "disappointment" by the United States. Canada's refusal to participate (without cost) in defense of North America against ballistic missile attack was regarded as "puzzling." Each of these descriptions served as polite euphemisms for a reality that had distinctly damaged the bilateral security relationship.

At that juncture, an analyst reached a point where he stopped recalling when things were worse and just hoped things would not deteriorate further. And it isn't as if the "best friends, like it or not" description of our relationship had not in the past emphasized the "not."

Historically, from all appearances, Trudeau and Nixon sincerely loathed each other (indeed, no U.S. president seemed to garner any respect from Trudeau, and he appears to have been repugnant and irrelevant to his U.S. counterparts). John F. Kennedy and Diefenbaker shared vituperative assessments of each other. Lyndon B. Johnson virtually strangled Pearson over his critical Vietnam

speech. Prime Minister Chrétien seemed to have a special predilection for disrespecting U.S. presidents; we regarded him as too trivial to be worthy of public rejoinder—he was virtually beneath contempt. At least President Bush and Prime Minister Martin avoided public polemics. By mid-2013, presidential-prime ministerial relations were congenial, albeit not intimate, but President Obama had yet to make the traditional state visit with an address to Parliament.

From 1939 until 1989, the United States and Canada largely shared a common threat perception. First fascism and then communism needed to be countered. One could debate when, where, and how, but the need for reasonably coordinated effort against these challenges was accepted. As noted earlier, during World War II, Canada put one million of its citizens into uniform and built an armed force that stood fourth in the world in combat power on land, sea, and in the air. Canada indeed "punched above its weight." It was all downhill from there until post-2001 and the Afghanistan commitment; only a badly misguided Canadian could think that in politico-military terms Canada was anywhere near its previous "weight." Nevertheless, until the end of the Cold War, the United States could be confident that Canada would at least devote some serious effort to defense and put well-trained professionals with good equipment into the field.

This is no longer the case. Stacks of studies have recounted the past, present, and projected decline of the Canadian armed forces. Other than the Afghan anomaly, the conclusion regarding the Canadian military march to irrelevance was relentless.

The Afghanistan Anomaly

Canada's almost decade long combat commitment to Afghanistan was an aberration; ultimately it may be characterized as a "dead cat bounce" or the final galvanic twitch of a dying establishment. Nevertheless, it was a real—and valued—contribution to coalition forces. Canadian participation as part of the NATO force in Afghanistan began virtually with the beginning of the international effort to remove the Taliban government and rebuild a viable country and persisted for most of a decade before ending in July 2011 when it morphed into a training mode for Afghan military and security forces. But during its Afghan combat presence: 40 Joint Task Force Two (Delta Force equivalents) personnel went in December 2001 and regular forces arrived in early 2002 and executed combat missions in the south. From 2003-05, Canadian Forces were stationed in and around Kabul—essentially for local security and rebuilding, with CF levels doubling to 1,200 by end 2005. In early 2006, Canadian Forces transferred to Kandahar—a much tougher mission; subsequently, a rotating battle group of approximately 2,000 was deployed continually. In mid-2011, there were more than 2,500 Canadian Forces deployed in the entire country—one of the highest force numbers in the Alliance.

In late 2007, the Canadian government appointed a panel led by former Deputy Prime Minister John Manley to review circumstances and make recommendations. The result was a caveated commitment to continue combat presence until 2011. In March 2008, Prime Minister Harper persuaded Parliament (including support from the Liberal Party) to endorse continued Canadian Afghanistan commitment until the end of 2011. That action took Afghanistan off the table politically during

the October 2008 and May 2011 elections—much to the unspoken relief of both major parties.

The circumstances that projected the departure of Canadian Forces combat units by mid-2011 appeared clear but not definitive. While it was bruited about in early 2010 that the United States had requested Ottawa to extend its combat presence, that was not the case. Although the United States would have been delighted to retain CF in an active Afghanistan military role, Washington recognized the political constraints impinging on Ottawa.

At the annual military Conference of Defense Associations (CDA) meeting in Ottawa in March 2010, there was a trial balloon suggestion that a relatively small military training mission might continue. There was an open-ended need for trainers for the Afghan military and Canadians were well qualified. And such was the role that eventually emerged. At the minimum, as noted by Defense Minister Peter MacKay in mid-April 2010, Canadians would continue to mentor the Afghan police—who probably need even more attention than do the Afghan military forces—until the end of the CF Afghanistan presence in March 2014.

An Afghan Summing Up

There is societal ambivalence regarding the CF. Canadians are proud of their armed forces, but essentially rejected the ambiguous Afghan mission. The fact that 155-plus soldiers died during a decade in Afghanistan (which would not have been a week's worth of wastage in twentieth-century wars) has been disconcerting for Canadians to a degree that raises the question whether Canada could sustain significant combat losses—even among volunteers—irrespective of the military and logistical challenges.

Nevertheless, there were some positives from the Afghanistan mission.

As of 2011, extended numbers of the Canadian Forces gained greater operational and combat experience than has been the case since the Korean War. Although figures vary and certainly reflect multiple deployments by some personnel, as many as 40,000 Canadians passed through the Afghan operations sector. Moreover, the experience was with NATO allies, particularly with U.S. forces. Our joint exercises and military exchanges continued and improved.

The result has been a CF pride of accomplishment generating some members to claim that the CF is "the best small army in the world"—a claim that would probably be disputed by Israel's IDF, but does suggest that they believe they are "back" (couch potato has arisen, lost weight, and shaped up).

In the process, Canada developed—almost by accident—a rather rare capability: trained, experienced, well-equipped light infantry. And there is never enough of that type unit. Think what a couple of infantry battalions might have accomplished in pre-massacre Rwanda. Or in Darfur. Or in "ethnic cleansing" in the former Yugoslavia. Or for that matter still might do against the Zimbabwe dictatorship or Somali pirate bases.

Moreover, there was a modest CF renewal. If at the beginning of 2001, the CF were approaching the last gurgle going down the drain, a decade later there was a modest but real revival. Although replete with skepticism about the depth and duration of this revival, Canadian

Forces are better for having it than not.

The essential question for Canada—and Canadian—U.S. bilateral relations is what happens next.

Can We Move On?

Some of those dismayed by Canada's 2005 Missile Defense (MD) nonparticipation adopted the "let's move on" approach. Reminiscent of the Monty Python hero who dismissed his shattered and dismembered body as merely "a flesh wound", they wanted to put MD behind them and concentrate *inter alia* on upgrading NORAD. Almost amusingly, in mid-2013 there were whisper stream indications that Ottawa might now be interested in MD—a shadow possibility driven by the public irrationality of North Korean leader Kim Jong-un. Any such Canadian interest, however, would clearly need multiparty endorsement. And Washington will not be holding its breath in anticipation.

For its part, NORAD, which was renewed in 2006 to an agreement of indefinite duration, could be usefully expanded to cover other continental defense elements and reorganized to incorporate the Binational Planning Group. Such an approach is so rational and logical that it sounds like the reasoning to justify Canadian participation in MD; that is to say, that the logic is irrelevant. To be sure, there are bureaucratic tangles and resource commitments that would need resolution for a significant NORAD upgrading and reorganization, but they are excuses for inaction rather than defining obstacles.

A Future of Indifference?

The fact that we share a 3,500 mile undefended cliché is less and less relevant to our current defense relationship. For the indefinite future, the United States will believe that it is threatened by militant terrorism, overt and clandestine. Or in the vernacular, "security trumps trade." And while Canadians may appreciate this concern in the abstract, frequently they have given an excellent imitation of indifference. With his rejection of missile defense participation in 2005, Prime Minister Martin demonstrated that politics trumps security and created a major inhibiting factor for bilateral defense cooperation. Consequently, the United States has not dared to raise the MD question again, albeit continuing and upgrading its anti-ballistic missile (ABM) deployments in response to accelerated North Korean threats in 2013. Washington remains concerned over damaging a Tory government—even a majority government—by reopening a neuralgic issue that the Liberals and New Democrats could exploit. The result? A gap in continental defense and an even greater one in shared security understanding.

Indeed, if one believes the media, Canadians appear more worried that they may be discomfited for 10 minutes by any new border procedures than by concern that terrorists may be using Canada as a home base. Essentially, Canadians do not feel threatened by terrorism. And if 9/11 is replicated; it will be our fault, essentially for not being more Canadian and addressing "root causes" as one Canadian politician hypothesized in the immediate aftermath of the 2013 Boston Marathon terror bombing.

This attitude, reflected by steady levels of anti-Americanism in public opinion polls, will eventually be replicated in comparable anti-Canadian commentary in the United States.

Canadians should have no illusions that Americans will indefinitely consider them as simply those polite people who drive south to Florida for winter vacations. Those who deal with Canadians professionally are well aware of the virulent hostility from the chattering classes; they are more inclined to respond with a "Trudeau salute" than with apologies for our policies. The "age of Obama" era of good feeling is a blithe cover-up akin to cosmetics over melanoma; it is unlikely to survive the first real problems of the bilateral relationship.

Instead, Canadians by their defense funding choices are making it harder and harder for the United States to cooperate with them in military terms. Despite facing "sequester" restrictions, U.S. technology continues to advance; our forces in 2013 are far ahead of the forces that fought in the first Gulf War, dismantled the Taliban regime in 2001, and destroyed Iraq in 2003. Even when we desire to cooperate, it is becoming more difficult every year to do so. The Afghan anomaly has mitigated this gap on a tactical infantry level, as does the C-17 purchase for heavy air cargo lift, but it will rapidly attrite when Canadian defense spending returns to pre-2006 levels, forces are reduced, and equipment procurement gets deferred into the never-never.

For decades the United States has closely cooperated with Canadian Forces on every level. There have been endless military-to-military meetings and exchanges. Canadian liaison officers have held senior positions in the U.S. Army force structure; for example, both Generals Hillier and Natynczyk served as deputy commanders of III Corps. The new CDS, General Thomas Lawson, came to his position from being deputy commander at NORAD. In one instance in 1992 then-Army Chief of Staff General Gordon Sullivan told his Canadian counterpart that the U.S. store was open; that there was not anything in the way of training, access, or equipment purchase that was off limits to the Canadian Forces. In another instance, the Conventional Forces in Europe (CFE) agreement of 1990 required the elimination of substantial numbers of tanks and artillery. It provided, however, for those who had to reduce their armor and artillery to transfer (or "cascade" it) to countries with less modern equipment. Such less modern equipment would then be destroyed to meet the CFE limits. This provision was viewed as an adroit mechanism to upgrade the combat capabilities of Greek and Turkish forces that in some instances had Korean War vintage armor. In this process, a senior State Department official approached Canada to offer the Canadian Forces Abrams tanks—at no cost. Even "for free" Ottawa declined the opportunity, presumably calculating that the improved capabilities were not worth the cost given that the likelihood of ever using the tanks in combat was minimal. Perhaps they regretted having to borrow German armor for Afghan use, but Ottawa never admitted regrets.

Indeed, concurrent with the author's service as political minister-counselor at the U.S. Embassy in Ottawa from 1992 to1996, Canadian Forces were no longer training in the field in larger than battalion-size units. There were command post exercises, in which brigade level units were deployed "on paper," but funds were not available for brigade level field exercises. Of course, that absence of practical training meant, in effect, that no Canadian brigades existed, regardless of what the tables of organization might have said. A major unit such as a brigade is far more complicated than the sum of its individual units. Taking a brigade into an operation without practical training for the entire

organization would be akin to putting a racing automobile on the track having only tested its carburetor, transmission and, brakes separately, but never assembled the entire automobile prior to the race.

The U.S. defense establishment was on the verge of giving up. For more than a decade, our military attempted to keep its Canadian counterparts up to speed and maintain their technological and tactical proficiency. It was hard slogging. After the first Gulf War, a senior U.S. Air Force officer said privately that all Canadian pilots contributed was to "bore holes in the sky." Little was accomplished to reverse that judgment. There is a point where patching Sea King helicopters, extending the life of C-130s, and reducing CF-18 numbers to upgrade the remaining few aircraft becomes not just inefficient but counterproductive. And the prospect of obtaining the equipment projected for the CF in the "Canada First" 2006 defense plan is fleeting—more likely to be an artifact of the budgetary fat years prior to the Great Recession than to recession realities.

Thus we are hopeful, but not sanguine, that the Afghan anomaly will be sustained by Canadian Forces, permitting serious professional military cooperation between our forces. Faced with no existential challenge—and worn out psychologically by the Afghan commitment—the Canadian public is unlikely to support a strong defense budget.

The Free Loader Effect

It has been decades since Canada has contributed to defense and security in terms comparable to its GDP. There is a point, as with the shiftless brother-in-law, when you know that he will never pull his weight and you just "bear it." You can be stunned when said individual arises from repose and starts doing light exercises or offers to help with the yard work. But while you commend the activity, you don't expect it will persist. Somnolence is less stressful.

As noted earlier, Canada simply assumes that the United States will defend it against any significant threat because such a threat would also endanger the United States. Hardly heroic, but cheaper at the price. And Canadians continue to assume that the United States will remain benign; consequently, the essential elements of their sovereignty will remain intact.

In private conversation with Prime Minister Martin in November 2004, President George W. Bush reportedly noted that someday a U.S. president (not himself to be sure) might wonder why we were defending a Canada that didn't do its share. Subsequently, major U.S. media raised the same point. Then, the question subsided as it had for decades, and President Obama would never be so gauche as to belabor the topic, but it is a residual resentment about which Canadians should be aware.

And it is clear that the Canadian population does not want to cooperate militarily with the United States. It does not matter what the Canadian military might prefer—and indeed, there remains considerable professional respect by U.S. personnel for the professional competence of their counterparts in Afghanistan and elsewhere, as well as regret over the vicissitudes that they are enduring. However, their political masters have moved steadily to make cooperation improbable, if not impossible. By making it more and more difficult to find ways to cooperate, such as with missile defense, the Canadian government discourages further military-to-military initiatives. And with the end of joint action and

operations in Afghanistan, meaningful bilateral effort will be harder to identify. Cooperation does not have to be killed directly; it can wither from lack of and inability to exercise, train, and share technology, tactical thinking, and intelligence. After all, indirect confrontation is the Canadian way.

Moreover, there is a parallel for NORAD in our defense relationship with the Philippines. For decades after World War II, we maintained huge military bases at Subic Bay (Navy) and Clark (Air Force). They were frequently regarded as absolutely vital lynchpins for U.S. force presence and power projection in the Pacific. And then our bilateral relationship deteriorated; the Filipinos became more and more politically difficult. Our need for the defense basing moved from "vital" to "nice to have" to "we can get along without them." Today, the Philippines play virtually no role in U.S. politico-military thinking or planning beyond some counterterror cooperation and vague musing over a role in the U.S. "pivot" to Asia. NORAD could follow the same path—not today or tomorrow, but as the U.S. Armed Forces plan to assure they can protect the United States, they now have to start considering how to do so without NORAD.

The United States has bilateral relationships in which there is no trust. There are states when, if their leader declared the sun had just risen in the east, we would immediately rush to a window to verify the point. During the Cold War, in arms control negotiations with Soviet diplomats, they lied. We knew they lied; they knew we knew they were lying. But still they lied. Thus trust is not required for discussion, negotiation, or even agreement. At the signature of the U.S.-Soviet treaty to eliminate medium and shorter-range ground-based missiles, President Reagan offered "trust but verify" as the sobriquet to describe our bilateral relationship. It remains a classic summing up of Cold War reality.

For the United States and Canada, at the opening of the second Gulf War with Ottawa electing to be "unwilling," there was a touch of hurt anguish from a U.S. official to the effect that Canadians and Americans are "family" and should face such challenges together. Rather testily, a prominent Canadian journalist retorted that we were not "family" and, indeed, not even friends. It caught some American readers up short, but it was a useful reminder that nations do not have genetically-linked blood lines, and economic partners need not be friends to have profitable relations. Churchill has been credited with the quote, "There are no eternal friends or eternal enemies…only eternal interests."

There has been a bit of blithe romanticism from the U.S. side over our Canadian friends. From the northern direction, there has been pique and resentment. A mutual reality check is long overdue.

10 QUEBEC AS THE NEVER-ENDING PROBLEM

It is almost impossible, when looking at the summer landscape of Canada or Quebec, aglow in what appears to be a temperate European climate, to conceive of it in January when snow arrives by the foot and temperatures fall below any Western European or U.S. experience. That is, it is impossible to conceive of a Canadian winter during a Canadian summer unless you have prior knowledge of the climate history.

Such is the same for Quebec sovereignty.

Quebec issues have been the constant conundrum for Canada. Addressing the demands and differences of French-speaking Quebec, home to approximately one quarter of the Canadian population, has been the quintessential challenge of federal Canada from inception. Quebeckers are part of Canada via British conquest in 1759—force not choice—and more than 250 years of mainly benevolent (albeit sometimes despotic) control still has not convinced them to forgive and forget. The provincial motto, "*Je me souviens*" (I remember), makes the point every time one views a Quebec automobile license plate.

The result was an extended nonviolent struggle by French Quebeckers to gain full political and economic control over their affairs. It culminated successfully during the "Quiet Revolution" of the 1960s, when francophones moved into key positions of power and influence, largely displacing English-speaking Quebeckers. But substantial numbers of Quebeckers deemed this level of authority insufficient; they argued that their objectives could be obtained only by complete independence. Whether they were labeled separatists, sovereignists, autonomists, or some other designation, their objective for the past generation has been to create circumstances that would result in an independent Quebec. Toward obtaining this goal, there have been two referendums: in 1980 and in 1995, the latter barely missing a majority at 49.4 percent. This outcome was

particularly frustrating for separatists, who for the past 18 years have sought mechanisms to create their particular millennium, thinking "third time, lucky."

To Review the Bidding a Bit

Thus in mid-2008, Canada and Quebec were enjoying a best-of-times epoch. Throughout the land, the economy was "to die for" with federal and provincial budgets balanced; debts being reduced; taxes falling; inflation and unemployment at or close to historic lows; and the Canadian dollar the strongest in a generation. Prosperity equals tranquility. Five years later, the effects of the Great Recession are still roiling the province's finances. Canada has weathered the storm better than the United States, and Quebec has done better than much of the Rest of Canada (henceforth referred to in Quebeckian terms as the "ROC"), but the economic climate can no longer be depicted as the "best of times."

In Quebec there was certainly a level of discontent with various tax increases by the provincial Liberal government, the Parti Libéral du Quebec (PLQ). Premier Jean Charest had 70 percent unpopularity in mid-2010, but at that point the government's mandate extended until December 2013. In such circumstances, all the Official Opposition Parti Québécois (PQ) could do was gnash its teeth awaiting the next election. And without a PQ government to stoke the sovereignist furnace, nobody in power was interested in the issue.

Consequently, in mid-2010, it almost appeared to be a "time out" for Quebec—Canada's defining and often most volatile province. On both the sovereignty and the provincial political fronts, Quebeckers seemed to have stepped back from the fray. No one wished to kick the sleeping sovereignty dog.

As if to characterize this circumstance, one political observer termed Quebeckers as "fat and happy" (and Quebeckers are heavier than the Canadian average). Others continued to note that the generation-long obsession with "whether or not" independence for the province had faded. In contrast to the expectation a decade ago and immediately following the 1995 referendum that sovereignty would grow in strength as more young francophones arrived on the scene (and Anglophones died or left the province), sovereignty has proved to be more "not their father's Oldsmobile" than the political vehicle they wish to drive into the twenty-first century. Nevertheless, the "Canadian fact" lies more and more lightly on Quebeckers. A December 2010 poll noted that more than 60 percent of the citizens regarded themselves as exclusively or first Quebeckers, and only 18 percent of the 18 to 24 year olds reported strong attachment to Canada.

Hard core sovereignists have most assuredly not surrendered their dreams, but they have realized that now is not their time and nothing is possible until they regain power—real power beyond that of the very limited minority government they secured in 2012. They take comfort in polls suggesting that around 40 percent of the electorate still wants a sovereign Quebec; however, the desire for still another referendum is minimal—a position persistent even among many sovereignty supporters. Keeping activists engaged and hopeful during this extended interregnum, particularly with the PQ in power, is a major challenge for sovereignist leadership. Faced with the conundrum of desire and indifference, the core sovereignists have a simple answer: hold a referendum and they will come—and vote for independence.

Appreciating this reality, however, the PQ leader, Pauline Marois, announced in 2010 that the PQ program upon election would no longer include a near-term referendum on sovereignty. That position was bitter medicine for *Péquistes*, but swallowed with no more than a grimace. In mid-2010, separatist leaders projected a party platform that would defer a referendum call at the decision of the leader. With that change, the PQ retreated to approximately the position occupied by Lucien Bouchard, PQ leader and Quebec premier following the failed 1995 referendum. Before calling a referendum, Bouchard insisted on waiting for "winning conditions" (which never eventuated). His successor Bernard Landry's commitment to a referendum "as soon as possible" never came to pass either.

Nor did the prospect for a third force under the Action Démocratique du Québec (ADQ) emerge as an alternative "national" option to the separatist PQ. As a Quebec nationalist, ADQ leader Mario Dumont touted "autonomy" for Quebec—a term that remained carefully undefined, but could be hypothesized to give Quebec all powers short of full independence. Quebeckers asking whether the "autonomy" hypothesized by Dumont and the ADQ was a distinction without a difference so far as the PQ espousal of "sovereignty" never received an answer. Following his stunning rise to Official Opposition status following the 2007 provincial election, Dumont had an unparalleled opportunity to promote an alternative vision for the province—which he wasted, frittering it away with an unprofitable debate over "reasonable accommodation" of immigrants into Québécois society. While analysts recognized that the 2007 ADQ ascendancy was partly attributable to the combination of Liberals disgusted by the failures of Jean Charest and the PLQ and *Péquistes* repulsed over their cocaine-using PQ leader, André Boisclair, the ADQ had seized the electoral "lightning." Success, however, was catastrophic; the ADQ was unable to convert the lightning into productive political electricity and incinerated itself in the process. Its National Assembly representatives were inexperienced and outmaneuvered by both Charest and the third-party PQ. It went into a political death spiral and, caught by a snap election called in December 2008, was virtually annihilated. Dumont left the leadership to become a popular talk show host, and the shards of the ADQ were incorporated into the next "third party hope," *Coalition Avenir Québec* (Coalition for the Future of Quebec) or CAQ.

Brian Gable, Globe & Mail

Consequently, the PQ objective was minimalistic following the 2008 election. As the Official Opposition, it was preparing to govern once Charest and the PLG ran out their mandate, which technically lasted until late 2013. Privately, separatists appreciated that in democracies the Official Opposition eventually gets a chance to govern, and the PQ is a known (and reasonably trusted) quality with the electorate. The maxim remains that governments are not

beaten but defeat themselves. The Liberals were well down that path with tax increases and more putrid than usual, involving construction and union scandals. Charest, one of Canada's modern masters of landing on his feet while reinventing himself in mid-air, appeared to have expended his political equivalent of a feline "nine lives."

Thus from the 2008 election forward, the carrot of power beckoned the PQ—and they wanted to seize a mandate strong enough to move toward sovereignty without frightening the Quebec electorate in advance of an election. The PQ determined to concentrate on its strengths: they were not the Charest Liberals; they were clean government experts and effective economic managers. At the same time, separatist leadership believed it could orchestrate (third time lucky?) a referendum victory. They viewed the current federalist team of Stephen Harper, Peter MacKay, Bob Rae, Thomas Mulcair, Jean Charest, Justin Trudeau, etc., as nowhere as capable as the 1980 and 1995 federalists (Pierre Trudeau, Jean Chrétien, Robert Bourassa, Claude Ryan, Daniel Johnson, Jean Charest). Similarly, they believed their old warhorses (Lucien Bouchard, Jacques Parizeau, Bernard Landry, Gilles Duceppe) would step into familiar traces and combined with current PQ leadership could drive referendum victory.

And Then Came the Federal Election of May 2, 2011

Thus, until the federal election on May 2, 2011, the sovereignists' chosen path was three pronged: (a) maintain a bridgehead of separatists in the federal Parliament to work constantly to extract further benefits from Ottawa and simultaneously advance the arguments for an independent Quebec; (b) win control of the province by electing a separatist National Assembly majority based on the Parti Québécois; and (c) hold a provincial referendum that would win a majority. To be sure the, elements of this trifecta were much debated, particularly by provincial and national federalists who demanded adherence to federal laws (the Clarity Act) and Canadian Supreme Court opinion regarding the type of "clear" question that must be posed in any referendum and the dimensions of a "clear" majority. Separatists insisted on the classic "50 percent plus one" vote for victory.

On May 1, 2011, the separatists could hypothesize that they were making steady progress toward the objective. Following the April 14 French language debate, a senior Quebec journalist simply conceded electoral dominance in Quebec to Gilles Duceppe and the Bloc Québécois (BQ). The BQ held 43 of Quebec's 75 parliamentary seats, and the Parti Québécois polled as the prospective winner in the next provincial election. At the PQ party conference on April 18, PQ leader Pauline Marois, having just received a record-setting 93 percent endorsement of her leadership, pledged to push Ottawa every day for new powers, and BQ leader Gilles Duceppe, urging PQ support for BQ candidates, stated, "A strong Bloc in Ottawa. A PQ in power in Quebec. And everything becomes possible."

But then it all melted down.

At the beginning of the federal election campaign, the BQ was the most popular federal party in Quebec. BQ leader Duceppe was the most popular politician in the province and was judged to have won the campaign's French debate and had

performed credibly in the English debates. Yet on May 2, 39 of the 43 BQ MPs were defeated, including Duceppe, and mostly by overwhelming margins in constituencies where previously they had won repeatedly by the same overwhelming margins. Not defeat: annihilation. So what happened? There are a variety of explanations of assorted plausibility.

- Quebeckers were seduced by Jack Layton—that mustached "Smilin' Jack," twirling his cane and cracking wise in car-salesman French. Layton performed well in the mid-campaign debates garnering the "politician I'd want to have a beer with" vote and ultimately judged as "*un bon Jack*" (a good guy) in Quebecker parlance. The result was a tribal, sea-change move to "Jack" rather than any ideological impetus.

- A second strain of thought is that Marois and Duceppe overreached in their April 18 rhetoric. By reminding Quebeckers that a BQ victory, followed by a PQ victory, would mean a return to the referendum wars, their prospective countrymen's reaction was to recoil in dismay. Having struggled with the profoundly divisive and exhausting sovereignty issue for a generation, most Quebeckers just don't want to hear about it any longer—although they may prefer sovereignty if they could get it without going through the agonizing political process to obtain it. The thought of years more "dental chair drilling" prompted a "hell no, enough already" reaction—and the quickie search for an alternative settled on Jack Layton and the New Democrats.

- Another tenet postulates that years of largely invisible painstaking ground-laying work by the NDP finally bore fruit. Quebeckers are more "socialist" than other Canadians, and the NDP (having never been tried by the provincial electorate) didn't carry the baggage weighing down the Tories and Liberals. So, just as Quebeckers had switched in a trice from Liberals to Tories (1984) and Tories to BQ (1993), Ms. Fickle is now trying the New Democrats on for size. And some elements of the NDP platform and leadership rhetoric (finding "winning conditions" to satisfy Quebec within Canada) were attractive. The BQ was never going to hold federal power in Ottawa, by definition; in contrast, a federal NDP government might deliver the power and autonomy that Quebeckers still want. But nobody owns Quebecker votes, they are only rented.

- Finally there is the fatigue factor. The BQ is long years from its founding-father Lucien Bouchard dynamism; its Ottawa leadership was gray, dutiful, and pedestrian rather than dynamic; and Duceppe seemed a bit grumpy during the campaign and its debates. Everyone had heard it all before—there was nothing new to be said. Yes, they brought home some booty, most recently the Harper commitment to repay $2.2 billion that Quebec had expended in harmonizing federal and provincial sales taxes, akin to payments recently made to Ontario and British Columbia. But there is always a "what have you done for me lately" attitude among voters (even if "lately" was last month), and new avenues for BQ action in Ottawa were limited.

But in all honesty, nobody really knows. Are Quebeckers "tribal," making a corporate decision over the Easter weekend to take a "try it, you'll like it" plunge and drink the Kool-Aid? Did they overshoot, wanting to send a cautionary message to the BQ rather than throwing out separatist baby as well as

turgid bathwater? Have Quebeckers outgrown the formal separatist movement (analysts note steady declines in separatist votes in a series of elections) becoming "nationalists" (whatever that means) but not "separatists," just as they turned from the iconic Catholic Church in the 1960s?

The reverberations have not yet even begun to settle; the election's entrails will be pored over for decades by the ultimate graduate student PhD researcher.

After Effects: Duceppe

At the beginning of May 2011, Gilles Duceppe was regarded as the most popular politician in the province. Following May 2, his future came completely into question. And he has carefully restrained from proclaiming a future direction, dismissing various media speculations and over-heated boomlets that he was about to seize PQ leadership from Marois or seek to be mayor of Montreal. Privately, he first indicated that he would take months (now moving toward years) to recalibrate his objectives—particularly after an abortive role as political commentator on Radio-Canada evaporated under intense criticism and inside-the-BQ-sniping generated questions regarding use of BQ federal funding to support party work. Duceppe may retreat into "special projects" such as heading a PQ-created, 2013 province-wide "skills training, employment, and manpower" commission; he is being held in reserve for any future referendum.

And the NDP

In the months immediately following the election, Quebeckers seemed to have no morning-after remorse. Indeed, June 2011 polling indicated variously 40—and even 50—percent support for the federal NDP with other parties falling further (BQ at 14 percent) from their May 2 totals. However, by mid-2013, the NDP had sagged in the polls as Quebeckers were dissatisfied with NDP efforts for Quebec in Ottawa. At 30 percent, they had fallen behind the federal Liberals benefitting from a Trudeau-effect surge (38 percent) but still led the BQ (18 percent) and Tories (10 percent). The volatility of the polls suggests they are interesting but essentially meaningless.

But Can the PQ Hold Together Even in Victory?

The political upheaval did not conclude with the 2011 Bloc collapse. Demonstrating its proclivity to devour its leaders when they appear strongest, a number of Péquistes denounced PQ leader Marois and left the party during Summer 2011 to sit as independents; the attrition continued throughout the autumn. Ostensibly, their complaints were prompted by Marois, who demanded party support for a bill prohibiting law suits against a sole-bidder arrangement to construct the new Quebec City hockey arena. Taking the position without consultation, Marois roiled party stalwarts who had been committed to intense discussion of such issues. But more pertinently, the departure of four hardline supporters of Quebec sovereignty emphasized their dissatisfaction with Marois' slow march toward another referendum. Marois clearly attempted then (and continues now) to straddle the issue with implicit commitment to a sovereignty referendum, but not moving to one so quickly as to "scare the horses" of soft sovereignists more interested in good government than independence. Subsequently, two other PQ MNAs left the caucus—one reportedly because the party was talking too much about sovereignty!

With draconian measures, including an

unprecedented demand for formal loyalty oaths from the remaining PQ caucus members, Marois staunched the hemorrhage by autumn 2011 and regained control at a party conference in early 2012. Some, however, stunned by such action and repelled by her leadership style, declared that she could not survive as leader. They were wrong; however, under any circumstances, the costs for quelling this rebellion—even temporarily—were severe. The PQ, which appeared odds-on favorite to replace a dead-man-walking Liberal government, collapsed in the polls. Jean Charest, having won three consecutive elections (one leading a minority government) and becoming one of the great survivors of Canadian politics, appeared far past his best-before date. Some believed, however, that Marois had gifted him with a "10th life." A late June 2011 poll indicated that Charest had regained the lead among recognized parties. Defying run-out-the-clock logic that would have kept the Liberals in power until late 2013, Charest plunged into an election campaign in autumn 2012 and virtually seized victory from defeat's jaws. Not quite, but he held the PQ to a minority government (54 seats) to his 50, and only a fractional popular vote victory 31.95 percent to the Liberals' 31.2 percent.

In a mixed blessing for Marois, several of the hard core sovereignists decided not to run again, but her cabinet consisted of virtually all unilingual francophones of quality far below that of previous PQ governments.

The Third Party: Another Factor in Play

The other factor in play is François Legault and his *Coalition Avenir Québec.* Legault is a businessman and former Péquiste who, according to separatist leadership, was once a passionate separatist seeking an immediate referendum. But circumstances change; Legault left the PQ and subsequently cofounded his amorphous "Coalition," which ostensibly seeks to assemble Quebeckers regardless of their views on sovereignty in a vaguely center-right movement to address economic and societal issues. He is evasive on a referendum, initially indicating that it would not be held in his first mandate, but later saying that he didn't expect it within the next 10 years. This vague approach has significant appeal as commitment to anything that appears to be a near term referendum has a poison pill effect on the proponent.

Legault transformed his Coalition into a formal political party in November 2011 and, momentarily, polls suggested that a Coalition Party combined with remnants of the *ADQ* could pull more than 40 percent of the vote and sweep the province. But Legault was not an organizer, and party formation has been a slow motion process; he conceived of a "waiting for the wave" approach during the 2012 election—seeking the same tsunami that lifted the NDP to victory. But it didn't happen; the CAQ won 19 seats with 27 percent of the vote, holding the balance of power, but having little immediate political impact.

Bottom Line

Hang onto your hats; everything remains in play regarding Quebec governance and, concurrently, the future of its sovereign movement.

Ever since the 1995 referendum, separatists have sought to create "winning conditions" that could convince a skeptical electorate that a referendum would have a positive result. All concerned appreciate that desire for another

referendum is minimal, but sovereignty retains a baseline polling support of 40 percent plus, and polling also shows that citizens of the province regard themselves as "Quebeckers" rather than Canadians. Consequently, BQ/PQ activists believe that "if we hold one, they will come," and appreciate that while "Canada" has its virtues, an independent Quebec would have more of them.

Consequently, minority government is frustrating. But there is no hurry to force a new election. The PQ has sagged in the polls; the Liberals under new leadership have surged. So the PQ under Marois prevaricates—hoping *inter alia* that the Charbonneau Commission (a public inquiry into potential corruption in the management of public construction contracts) will disinter further Liberal scandal. Splinter separatist parties bled off approximately 8 percent of the electorate in the 2012 election. The PQ knows that without separatist unity there is no hope for a PQ majority, and without a majority, no Péquiste government would risk a referendum.

Péquistes and sovereignists project a long road back: First, one must unite the separatists—the PQ and *Québec solidaire* in a productive electoral alliance. Next, one must orchestrate an election at the most propitious time, presumably combining revelations of Liberal corruption at every level with further CAQ decline. With a majority government resulting from such an election, the Péquistes must design rationales for a referendum by making (unacceptable) demands of Ottawa in the form of greater fiscal support and benefits that would justify a "back to the future" referendum. Finally, separatists must convince a majority of Quebeckers that independence will be better than the comfortable, well-paid relationship they enjoy with Canada. However, having twice leaped onto the "hot stove" of divisive referendum, the separatist "cat" is currently unwilling to try again—even if the stove is cold.

A Separate Issue: The "Reasonable Accommodation" Commission Accommodates

Inaugurated in 2007 and delivering a report in May 2008, the two-person Reasonable Accommodation Commission was prompted by increasingly fractious provincial debate over the degree to which immigrants and religious and cultural minorities needed to have their special desires accommodated by Quebec society versus the degree to which they should accommodate to majority attitudes and practices. The commissioners, federalist anglophone Charles Taylor and separatist francophone Gérard Bouchard (brother of former PQ premier Lucien Bouchard), held a series of hearings throughout the province to review attitudes toward girls wearing head scarves during competitive athletic events or full facial covering for women when voting.

The final report concluded that Quebec's francophone culture was not under threat and the province should move toward becoming a sophisticated cosmopolitan society. It offered a list of 37 often bureaucratic recommendations to make the province more, well, accommodating for non-francophones. Although the report attracted less criticism from francophone than might have been anticipated, its recommendations appeared stillborn. One of the most obvious—removing a crucifix above the Speaker's chair in the National Assembly—was unanimously rejected by the Assembly. The intimation is that

francophone will continue to pay politically correct lip-service to welcoming immigrants (with Montreal as a genuinely cosmopolitan metropolis), but there are obvious limits with the emphasis being that Quebec is a "French" rather than multicultural society. Such a condition makes it exceptionally difficult for sovereignists to "sell" their product to immigrants (who frequently decide anglophone Canada is more appealing) and problematic to young francophones with Montreal rather than Quebec hinterland roots.

Sovereignty Is Not an Abstraction

Nevertheless, despite the patina of placidity, the prospect of Quebec sovereignty is not a hypothetical abstraction. Sovereignty deferred is not sovereignty denied. While the "near death" political experience with the October 1995 Quebec sovereignty referendum coupled with the exigencies of the "Clarity Act" have militated against resumption of the Canadian national unity battle for 18 years—now longer than the period between the first and second sovereignty referendums, the Canada-Quebec conundrum remains unresolved. There may never be an independent Quebec or even another referendum. Both would be sanguine outcomes, for the United States as well as for Canada, but neither is a "best bet," and there are factors still extant that put Canadian unity in jeopardy, if not in peril.

What Quebec has managed is a masterpiece of political jujitsu. It has leveraged a declining demography into a guaranteed position of privilege of disproportional representation in the federal parliament and a de facto veto on every issue affecting its provincial interests. Its argument that Canada exists as an agreement between two founding peoples, French and English, extends in Quebecker minds to the judgment that there are only two relevant actors: Quebec (francophones) and everyone else. And Quebec continues to extract booty from Ottawa almost without effort: the $2.2 billion "harmonization" repayment for Quebec adopting a harmonized sales tax (HST) 20 years ago, and the October 2011 federal commitment to fund a new Champlain Bridge from Montreal to the South Shore is priced at $4 to $5 billion (but who's counting?).

Canadian acceptance of French as an official language legally equivalent to English throughout the country is the most obvious manifestation of *Québécois* socio-political power. It is akin to Welsh being an official language in the British Parliament and throughout the United Kingdom as a consequence of Wales accepting English rule with the Statute of Rhuddlan of 1284. Or a more contemporary analogy might be having Spanish as an official language of the United States driven by the argument that Spain was also a founding nation in North America with its colonies in Florida, California, and the Southwest.

For its part, the United States need take no immediate action. Moreover, a cool-eyed appraisal of Quebec independence indicates that its dangers have been overstated. Although the United States does not want an independent Quebec and must continue its strong support for Canadian unity, it should recognize that "the unresolved and determining factor is and must be the will of the people of Quebec."[2]

Quebec as the Never-Ending Story

For more than 200 years, "national unity" has been for Canada the equivalent of the old saw about a dermatologist's patients: They never get better, but they never die. For many Canadians, it is an axiom that Quebec will never separate from Canada. A Calgary man once epitomized the point by commenting, "It's an issue that has been around the block so many times…and never happens."[3] These citizens believe the long, shared Canadian history, the prominent role Quebeckers play in national politics, and economic self-interest are decisive weights on the balance. While avoiding the implicit (and counterproductive) arrogance of saying "never" in public, they believe that, regardless of how separatists fulminate, connive, and bluster, Quebeckers remain essentially committed to Canada. It is perhaps the political equivalent of spousal belief in the fidelity of their martial mates.

Consequently, a sanguine observer might assume success from Ottawa's current, national unity strategy:

- **Plan A:** Hortatory cheerleading efforts by the Heritage Ministry's Canada Information Office.[4] Despite the egregious scandal revealed in juridical investigation of bribery and malfeasance, the federal government continues efforts to make "Canada" more obviously present in Quebec.
- **Plan B:** "Step-by-step" devolution as the carrots of flexible federalism and constitutional change are deployed. Prime Minister Harper's endorsement of Quebec as a "nation" and symbolic moves such as a Quebec seat in UNESCO are choke-the-cat-with-cream maneuvers. For their part, separatists seek to expand the substantive ramifications of "nation" to extract more cream.
- **Plan C:** Threats and penalties with "partition" of Quebec as the ultimate stick (e.g., "if Canada is divisible then Quebec is divisible"). Prior to such draconian post-sovereignty action is the politico-legal labyrinth epitomized by the "Clarity Act," creating a set of legal hurdles, including an undefined "clear majority" to an equally undefined "clear question" regarding any juridical-approved separation.

This intensive effort, developed by sophisticated politicians, lawyers, analysts, and pollsters slowly drove down the level of support for sovereignty from approximately 50 percent (depending on the pollster, the crisis du jour, and a waxing or waning moon) to its current level of approximately 40 percent (contingent on the same factors). At such a lower percentage—which was the level of support for Quebec sovereignty prior to full involvement of separatist leader Lucien Bouchard in the mid-1990s—the PQ will not chance another referendum until it regains majority power. The United States, however, cannot be that confident. It must be intellectually prepared for a sovereign Quebec—just as we must be prepared for a breakup of the European Union and a reconstitution of the USSR under one name or another.

Near Death: The 1995 Sovereignty Referendum

Thus although the past is never repeated, even when it is forgotten, it is useful to review the circumstances leading to the 1995 referendum and its immediate aftermath. This condensed

history and some aftermath provides perspective for 2013 and future years.

The 1995 sovereignty referendum did not leap full-blown from Canadian politics. It was rather the culmination of 15 years of constitutional wrangling and, more indirectly, the unresolved English-French dichotomy in Canada dating to James Wolfe and Louis de Montcalm and their fatal encounter on the Plains of Abraham outside Quebec City in 1759. Indeed, Quebec sovereignty had become something of an academic question in the decade following a 1980 sovereignty referendum. In this referendum, driven by Quebec separatists, a soft, convoluted question postulating a vaguely defined "sovereignty association," between Canada and Quebec was handily defeated by 60 percent to 40 percent with majorities both francophone and anglophone Quebeckers majorities against merely exploring such a status.

The defeat badly chastened the PQ and its founder-leader, René Lévesque. Although re-elected in 1981, the Péquisite push for Quebec sovereignty slid to the fine print of official manifestos. At the same time, however, Quebeckers' discontent with the Canada-Quebec relationship rose as the federal government under Prime Minister Pierre Trudeau and his Justice Minister Jean Chrétien, made substantial revisions in the Canadian constitution, including its official return (or "patriation") from the United Kingdom over the objections of Quebec. Furious Quebeckers, attracted by campaign promises by Canadian Federal Tory leader Brian Mulroney to address their constitutional grievances, punished the federal Liberals in the 1984 election, transforming the province from a Liberal preserve to a Tory stronghold—albeit one sustained by PQ sufferance.

For his part, Lévesque embraced a *beau risque* (a chance worth taking) with Ottawa for a rejuvenated Canada-Quebec relationship. Ground down by eight years in power, however, the PQ lost the 1985 Quebec election to the provincial Liberals. The Péquistes then forced a worn out, disheartened Lévesque from PQ leadership and replaced him with Jacques Parizeau, a sophisticated economist and a passionate advocate of Quebec sovereignty. The PQ started its long road back to political power and, although again defeated in 1989, improved its political position—all the while criticizing the Canada-Quebec relationship.

Meanwhile Prime Minister Mulroney and the Tories gave serious attention to constitutional revisions addressing Quebec's concerns, *inter alia*, recognizing Quebec as a "distinct society" and providing a veto over constitutional change. These proposals were wrapped into a legal package called the Meech Lake Accord (after a pristine mountain lake on the outskirts of Ottawa where the prime minister has a vacation home). The agreement was completed in 1987 and endorsed by Quebec, but Manitoba and Newfoundland refused to agree before the period for provincial agreement expired in 1990. Former Prime Minister Trudeau and Liberal Party Leader Chrétien also vigorously opposed the agreement, arguing that the 1982 Constitution did not require alteration. After the collapse of Meech, having endorsed this compromise, Quebeckers felt both rejected and humiliated, and support for sovereignty surged while anger at Chrétien and the Liberals gained further impetus.

The aftermath of the Meech Lake defeat brought a new figure to prominence: Lucien Bouchard. A close friend of Prime Minister

Mulroney from university days, Bouchard followed a winding path through Quebec politic that eventually brought him into the Tory government, first as ambassador in Paris and ultimately as environment minister. Disagreement over the Meech Lake Accord, however, ruptured the Bouchard-Mulroney bond. Bouchard founded a federal-level separatist party, the Bloc Québécois (BQ), in July 1990 with a handful of former Tory and Liberal Members of Parliament from Quebec, speaking as a rather lonely voice in Ottawa for Quebec sovereignty.

Mulroney went back to the constitutional drawing board, expanding his efforts beyond Quebec to incorporate concerns from western provinces, Canadian aboriginal groups, and other interest groups. The result of two years of intensive public consultation and negotiation was the Charlottetown Accord (named after the capital of Prince Edward Island where final-stage negotiations took place). Virtually all federal and provincial parties—both government and opposition—as well as economic, social, and media elites, endorsed the accord. It had something for everyone; unfortunately, it also had something that everyone disliked. In a nationwide referendum in October 1992, Canadians defeated the Charlottetown Accord by 54.4 percent to 44.6 percent; 6 of 10 provinces, notably Quebec and all 4 western provinces, voted against it.

Following the defeat of Charlottetown, Canadian domestic politics hit the fast-forward button and "constitutional fatigue" pushed national unity from the public agenda. In the October 1993 national election, the Liberals annihilated the Tories (who fell from 177 seats to 2), but Quebeckers catapulted Bouchard and the BQ into national prominence. Capturing the separatist votes "loaned" to the Tories in the 1984 and 1988 elections, the BQ seized 54 of Quebec's 75 seats, becoming a parliamentary oddity: the "Official Opposition" to the Liberals. Quebec separatists for the first time had a prominent contingent in Ottawa with a dynamic leader; they formed "loyal opposition" disloyally dedicated to the dissolution of the country.

The massive Quebec separatist presence in Ottawa began to force the "national unity" question again into the unwilling public consciousness. And with the requirement for a Quebec provincial election pitting the incumbent Liberals against the resurgent Péquistes, Canadians had the opportunity to preview the coming battle over Quebec sovereignty. In contesting the October 1994 election, the Liberals—under the new leadership of Daniel Johnson, the third in his family to be Quebec's premier—struggled against the burdens of nine years of incumbency and a weak economy. Johnson, who could be described as "charisma-challenged," labored gamely throughout the campaign to transform the provincial election into a sovereignty referendum.

For its part, the PQ maintained a focus on Liberal failures and promised "good government." Johnson was partly successful: although clearly defeated in the National Assembly (77 to 44 seats), he lost the overall popular vote by only 0.4 percent—44.7 percent to 44.3 percent, and clearly held the PQ to under a majority.

Although he avoided concentrating on Quebec sovereignty during the campaign, PQ leader Jacques Parizeau committed to a referendum within a year of his election, promising a vote on a clear choice of sovereignty for Quebec. The PQ moved quickly, introducing a draft law on its planned arrangements,

but extensive public hearings during the winter of 1995 did not generate significant enthusiasm. Consequently, the commitment to an early referendum appeared to be an uncomfortable box for separatists as polls at this point suggested sovereignty would not win a majority. Separatists' hopes were further damaged in December when Bouchard was struck by necrotizing fasciitis ("galloping gangrene"), resulting in the amputation of his left leg. Although he recovered with remarkable speed, his personal commitment to and physical reserves for an exhausting campaign were in question.

Throughout the spring, separatists struggled with formulations and timing for any referendum, and polls hovered no higher than the mid-40 percentile in support of sovereignty for Quebec. In June, however, Bouchard pressed for a *virage* (turning), and orchestrated agreement among all separatists to seek an economic and political association with Canada. This agreement was internalized in the official question announced September 7, promising a formal offer to Canada for "a new economic and political partnership" in the event of a "yes" vote, and setting the referendum for October 30.

For their part, the federalists were confident of victory; public and private polls (in contrast to 1980) showed them clearly ahead. Ottawa hushed the federalists outside Quebec, as it wanted to avoid inadvertent, emotionalized insult or give the separatists a rallying cry, as happened in 1990 when Brockville, Ontario, rowdies stomped on a Quebec flag. Chrétien scheduled only a few "cameo" appearances in Quebec. Federalists sneered at the provisions of the proposed Canada-Quebec "partnership," characterizing it as a divorce with bedroom privileges for Quebec.

In the initial stages of the official campaign, the separatists came out stumbling. Mandatory debate in the Quebec National Assembly on the referendum question did not provide the anticipated lift for separatists. They mumbled about gaining a "moral victory" by finishing above 45 percent with a majority of francophone voters, and as late as October 10 to 12, a Gallup poll had respondents answering "yes" at only 43.5 percent.[5] With three weeks to go in the campaign, however, momentum began to shift. On October 7, Bouchard was named "chief negotiator" for the projected discussions with Ottawa in the event of a "yes" victory. Initially this move appeared the equivalent of naming Bouchard as captain for the second voyage of the *Titanic*, but for undecided Quebec voters, Bouchard was everything that Parizeau was not.

Bouchard's zig-zagging political career reflected the Quebeckers' own ambivalences. As the author of the *virage*, Bouchard appeared willing to devise a new "partnership" relationship with Canada rather than exploit cynically the proposal as a mechanism for separation. (Subsequently, it appears clear that Parizeau intended to seize even a one-vote margin of victory to drive an independent Quebec into reality.)

And Bouchard was something else. Already the most popular politician in Quebec following the 1993 federal elections, his touched-by-death experience transmuted him into another political dimension. Almost overnight, he galvanized the semi-moribund separatist campaign into passionate action characterized by crowds chanting "Lucien, Lucien," and responding to him as if they were present at the creation, rather than a politician in a political campaign.

The federalists were almost blown away. Earlier, they had been damaged when a senior businessperson spoke of "crushing" the separatists. Then Finance Minister Paul Martin spoke of "a million jobs in question" in Quebec—an over-the-top suggestion lampooned by separatists. Chrétien and Johnson squabbled in public over the ultimate status of Quebec. But the federalists fought back with passion of their own: Chrétien addressed the nation, promising to keep "open all the other paths for change including the administrative and constitutional path," and the federalists orchestrated a massive, pro-Canada rally in the heart of Montreal on October 27.[6] Public polls moved to the "too close to call" category, but on referendum day, senior separatists were confidently predicting victory while federalists declared separatist momentum had stopped.

On the night of the referendum, Canadians watched a red and blue fever bar across the base of their TV screens as the "yes" vote started at more than 50 percent but slowly declined to 49.4 percent. With 93 percent of the electorate voting, little more than 50,000 votes separated winners and losers. Despite the passion and commitment, the average Quebec federalist took the victory (and separatist, the loss) calmly. There was less violence on referendum night than there might have been after a hotly contested hockey match.

Not so for Parizeau. Blaming "money and the ethnic vote" in a concession speech, a perhaps "overly refreshed" Parizeau was bitter in defeat. Federalists and separatists alike excoriated his outburst as racist and divisive. Electing to jump before being pushed, Parizeau resigned as both PQ leader and Quebec premier the next day, opening the way for Bouchard to assume both roles in early 1996.

And Its Aftermath

In the intervening 18 years, the separatist high tide has slowly receded. Separatists argue that if they had quickly returned to the fray with Bouchard as premier (and when polling numbers suggested they could garner a majority), they would have been successful. But Bouchard, operating under "yellow light" caution, preferred to demonstrate to the Quebec electorate that he and the PQ were responsible, trustworthy custodians of the economy and the public interest. Then, given such success and a renewed mandate, he would have the "winning conditions" necessary to bring forward another referendum. Bouchard's efforts, although well-directed toward balancing the provincial budget, rationalizing health care, and amalgamating metropolitan areas, were not universally popular.

Although Bouchard handily won election in 1998, he actually did so with a lower percentage of the vote than the Liberals, now led by Jean Charest, the former head of the federal Tories, and below both the PQ's previous margin of victory and the "yes" vote in the referendum. Although separatists might have argued that there was a reservoir of votes for independence in the third party, the ADQ, whose leader had previously supported "yes," Bouchard was disconcerted and discouraged by the result. Increasingly, "nibbled by ducks," as the PQ membership is notoriously fractious in harassing its leaders, he resigned in 2001 and officially accepted responsibility for failing to lead the province to independence. Others noted Bouchard's historic volatility, having never stayed with

the political parties he joined—even when he led them. Nevertheless, with his departure from the PQ, the separatists lost their most charismatic leader, and Bouchard subsequently has remained politically unengaged, although active in private law practice, high profile labor conflict mediation, and community service. His statement in February 2010 that while personally committed to Quebec independence, which he did not expect to occur in his lifetime (he was born in 1938), was a hard-to-explain-away downer for separatists.

Bouchard's departure left a void that separatists have been unable to fill. Bernard Landry, his successor as PQ leader and premier, was defeated in the 2003 provincial election, never being able to achieve those elusive "winning conditions" although providing governance that, even in defeat, was positively regarded. Following his defeat, however, Landry also resigned leadership and retired, thus removing the last prominent member of his generation of sovereignists from active politics. Currently the PQ, following its dalliance with leader André Boisclair, has a transitory air; its leadership, even after winning a minority government, is competent albeit uninspired.

One can puzzle over next-generation possibilities for sovereignty; current leader Pauline Marois, although the first female premier of Quebec in 2012, is not personally galvanizing. Her earlier flailing to regain control over a party that was fracturing retrospectively still has more than a tinge of desperation. Moreover, although an ancillary point, her ability to lead Quebec and project an international image suffers from being virtually a unilingual francophone as Quebeckers expect that their leadership will be able to engage in both official languages. Her initial foreign travel to Paris and Scotland passed with barely local mention.

Bouchard once said that if the Meech Lake agreement had passed, he would not be where he was politically; that is, Quebeckers would have found the revised federal-Quebec relationship acceptable. It is a measure of Canada's slow-motion crisis that English-speaking Canadians would be unlikely to accept a renewed Meech Lake proposal, and separatists have said it now would not suffice for their objectives.

Unfortunately, for long-term provincial tranquility, many of federalism's "carrots" have a wilted look, and the ROC shows little interest in offering Quebec even more enticing and unique benefits that would terminally deflate the separatist movement. Both the provincial Liberals and the Péquistes compete as Quebec nationalists; the Harper Tory government (as did the Martin Liberals) have extended greater financial and bureaucratic benefits to Quebec (re: HST reimbursement and Champlain Bridge funding), but "enough" is never enough. And now the majority Conservative government does not need Quebec MPs to stay in power, further reducing incentive to cater to Quebeckers.

A federalist contrarian, however, would note that Quebeckers are essentially satisfied with their current arms-length relationship with Ottawa, permitting them to extract benefits at minimal political cost; he would conclude that sovereignty is moving from the "sleeping dog" category to one in a coma heading for hospice.

Quebec *Is* a Nation

Although in 2007 Prime Minister Harper introduced a parliamentary resolution identifying the *Québécois* as a nation "within a united Canada," this is a socio-political construct rather than a juridical or legal status. Indeed, it is another artful mechanism to persuade Quebeckers that independence is unnecessary and that all francophone aspirations can be accommodated within the structure of Canada. It is hard to discern any long-term effect from the formulation: Quebeckers knew—and know—they are a "nation" without a requirement for Ottawa to recognize it.

For much of the ROC, it was just another kowtow to Quebec.

It does not take much examination to recognize that in political science terms, Quebec qualifies as a nation-state. It has a largely coherent population speaking primarily a single language; a recognizable culture; a comprehensive body of law and legal tradition; definable borders; sophisticated political institutions; a viable economy; and effective, well-educated leadership. Many, if not most, of the "states" that gained independence during the past 50 years lacked any comparable qualifications—and still lack them.

The anecdotal evidence is just as clear. The hand of Canada lies very lightly throughout most of Quebec. Outside Montreal, the federal maple leaf flag flies almost only over federal institutions such as post offices. In the last generation, the majority of the population has come to see itself as Québécois, not as "French Canadians." Canada is virtually irrelevant to the average citizen of Quebec—and particularly so to the four million unilingual French speakers and to those outside the Montreal metropolitan area. At best for them, the relationship with Canada is described as a "marriage of convenience, not a marriage of love." It has been said that the opposite of love is not hate; it is indifference—and that is the emotion francophone Quebeckers extend to Canada.

Perhaps more importantly, rank-and-file francophone federalists are almost invisible. Although 35 percent of Quebec's francophones voted "no" in the 1995 sovereignty referendum, they do not advertise their preference for Canada. The absence of an articulate federalist rebuttal by francophones and their low profile during events such as the July 1 Canada Day (in contrast to the "National Day" celebrations for *St. Jean Baptiste* on June 24) leaves the impression that the only opponents to Quebec sovereignty are the anglophone minority and those Quebeckers whose native language is neither English nor French (known in Quebec as "allophones"). This minority, combined with the anglophone minority, nevertheless constitutes only about 15 percent of Quebec's population. The fact is that francophone federalists have no realistic alternative except Quebec—if they wish to live in the French culture and language. Although anglophones could opt to depart, the overwhelming majority of francophone federalists would stay and come to terms with a sovereign and separate Quebec. Hence, the silence of francophone federalist lambs implicitly suggests the anticipation of eventual defeat (and willingness to accept it if necessary) rather than quiet confidence that Quebec will always be part of Canada.

It is useful for policymakers to keep these points in mind. Although in mid-2010, polls

suggested that Canadians (and Quebeckers) believed that Quebec will remain part of Canada, such is not chiseled in granite. While "every little language doesn't need its own country," an independent Quebec could come to pass. Such a state would be a nation of 7 million with substantial natural resources and energy supplies. It would have a well-educated, energetic population with sophisticated economic and fiscal systems, one that is export-oriented and comfortable with advanced technology. It would be the United States' fifth or sixth-largest trading partner. In short, Quebec would not be Mozambique, Uzbekistan, Bolivia, Nepal, or some other developing-world, cringing basket case. An independent Quebec politically, socially, environmentally, and economically would look more like Austria, Belgium, or the Czech Republic in its problems and prospects. That is, Quebec would be a small "Western," social democratic-oriented parliamentary democracy with a viable, high-tech oriented, "green," export-directed economy seeking to exploit its advantages (such as proximity to the US market and ability to deliver North American technology in French), but also vulnerable to the economic cycles of its larger trading partners.[7]

Federalism's Weaknesses Persist but Are Somewhat Muted

Following the 1995 referendum, analysts examined some demographic factors affecting the prospects for federalism in any future referendum. They were not cheering:

- The elderly are disproportionately federalists. They are dying.
- Youth votes are disproportionately separatist. They continue to join the electorate.
- The youth who supported "yes" in the 1980 referendum appear to have supported "yes" in the same percentages in 1995. They did not become more "conservative" (i.e., federalist) over time.
- Immigrants strongly support federalism, but immigrants are under strong pressure to conform to Quebec standards; many leave for anglophone areas.

Federalists continue to leave Quebec. If the roughly 200,000 anglophones who departed Quebec since the mid-1970s had remained, the 1995 "no" margin would have been much stronger.[8] The recent slight rise in anglophone numbers is an unconfirmed trend; anecdotally, the sons and daughters of the traditional anglophone population have departed for opportunities west of Montreal.

In mid-2013, the demography was little altered. Old Anglos are still dying; young ones are still leaving. Francophone youth still support sovereignty, albeit not with the passion or overwhelming majorities of the mid-1990s. Separatist efforts to define the limits of "reasonable accommodation" to immigrant cultural attitudes often appear artificial rather than sincere. The impression remains that separatists believe the best Quebeckers are those born in the province—and born outside of Montreal.

Beyond demographics, however, other negative forces exist for federalists. Prime Minister Chrétien was profoundly unpopular in Quebec; his successor as Liberal leader (Stéphane Dion) was equally reviled and the next Liberal leader (Michael Ignatieff) generated no traction in the province. Chrétien's commitment to federalism, his history of opposition to Quebec's desire for constitutional reform, and his "common

man" personality made him English Canada's favorite Quebecker, but these factors sold badly in his home province. Although Chrétien is now deep into retirement, he is far from forgotten and certainly not forgiven. Regardless of whether one hated Pierre Elliott Trudeau, one had to respect him. Dion had Chrétien's negatives without his relieving sense of humor and political effectiveness. Having been defenestrated from Liberal Party leadership following the 2008 election disaster, he has no residual resonance in Quebec despite remaining as a federal MP. Nor did the subsequent Liberal leader, Michael Ignatieff, regain ground for federalists. His ostensible positives ("clean," French-speaking, family—albeit distant—connections with the province) were not beneficial. Even before the May 2011 election, Ignatieff was frequently viewed as a failure having mangled, *inter alia*, relations with members of his Quebec caucus. Ignatieff's instant departure for academia indicated essential disinterest in anything in Canada other than obtaining power. Grappling with regaining some semblance of political coherence, in early 2012, interim Liberal leader Bob Rae had the strength of good colloquial French but little on-the-ground support outside traditional anglophone ridings.

The ascent to the Liberal federal leadership of Justin Trudeau (PET's son) in March 2013 breathed new hope and new life into the Liberals nationally and provincially. Canadians and Quebeckers are still determining whether he is "Just-in-time" to save the Liberals or "Margaret's son," implying that even at 41, he is immature and mistake-ridden. He will have two-plus years to transform doubtless charisma into electoral effect. Mid-2013 polls suggest that he is driving Liberal support upward both federally and in Quebec, but Harper's Tories are current masters in defining opponents derisively when election looms.

The New Democrats' historic victory also does not provide a lifeline for federalism in Quebec. Many of the original 59 New Democratic MPs (now 57) were open separatists, with the thinnest veneer of federalism. Although Layton was a Canadian nationalist, NDP official policy accepted that a referendum victory of "50 percent plus one" would be sufficient for separation. And most NDP MPs will reflect their constituents' pro-sovereignty attitudes if they wish to be re-elected; by mid-2013, slippage in NDP support (and commensurate rise of both Liberals and the Bloc) indicated shallow support. Likewise, there were questions regarding the "roots" of NDP MPs in their Quebec ridings, with many reportedly failing to do the grinding constituency work vital to assure re-election against humiliated Bloquistes seeking to regain their positions.

After the 1995 referendum, Ottawa was viewed as having failed to deliver on its promises of new benefits for Quebec. Quebec separatists dismissed the creation of a parliamentary veto and recognition of Quebec's distinctness as trivial in comparison to embedding these rights in the constitution. The devolution instituted under the Liberals, notably workforce training, appears to be credited to Parti and Bloc Québécois pressure rather than to Ottawa's flexibility. Indeed, Quebeckers at the time were far more familiar with "Plan C" elements such as "partition" strategies and Government of Canada support for Guy Bertrand's idiosyncratic challenge to the legality of Quebec's referendum law than with any "Plan B" "carrot" elements.

Moreover, there remains the legacy of the "Sponsorship" scandal, albeit fading, which came to public notice in 2004 and may have permanently tarnished the Liberal brand

among francophones. As it evolved through the Auditor General's analysis and juridical investigations under Judge John Gomery's Commission of Inquiry in 2005, there was substantial bribery and malfeasance in awarding contracts to advertise the virtues of Canadian federalism for Quebec. Quebeckers were disgusted with the corruption, but even more infuriated by puerile efforts to bribe them with their own tax dollars. The implicit destruction, or at least the continued heavy handicapping, of the federal Liberals in Quebec deprives Quebec provincial federalists of what was previously one of their most reliable supporting pillars. The further reduction in the 2011 election of a slim federal Liberal contingent in Parliament demonstrated brutally that rebuilding efforts for the federal Liberals have not gained traction. The problem now appears to require long-term rebuilding rather than simple remodeling with Justin Trudeau as its new leader.

Accentuating the collapse of the Liberal "brand" has been the grinding demoralizing revelations emerging from the mid-2013 ongoing Charbonneau commission. The sordid stories of corruption and payoffs have entrapped a wide range of provincial Liberals, making their recovery prospectively more difficult. The expectation is that Charbonneau initially focused on municipal malfeasance, but more significant will be the review of provincial ministries long under Liberal control. The dominant Quebec figure of the past 20 years, "Captain Canada" Jean Charest, was defeated in his own riding in the 2012 election, and has snuck away into something that can be defined as retirement. His successor as leader of the PLQ, Philippe Couillard, reportedly wants to bite into the poisoned apple of constitutional issues, a position demonstration more daring than discretion.

The Role of the United States and the Quebec Nation

As readers will be aware—perhaps all too well—the United States historically has paid little attention to Canada or Quebec. It is simply "up there"—the attic for the United States where bad weather is stored for winter release. Although Canadian historians doubtless can recount the various statements by one U.S. politician or another, fuelled by rhetoric or perhaps something stronger, to the effect that a united North America was inevitable, it clearly is not an objective that struck any particular resonance in the United States; it was never a driving force politically, and certainly is irrelevant today. Certainly, there is no interest among U.S. conservatives for adding 34 million liberal Democrat equivalents to the body politic.

To be blunt, had the United States desired Canadian territory from any point dating from 1867 onward, it would have acted directly to seize it. Doubtless the effort would have been resisted by Canadians, but the overwhelming likelihood remains that the United States would have succeeded in a military attack. Whether such an aggressive action would have been wise, legal, moral, or whatever, is beside the point. Our restraint came from ourselves—not because Canadian military strength or global opprobrium would have prevented this action. But somehow Canadians always forget this point.

And this restraint derives from our essential principle of noninterference in the affairs of others (honored in the breach as some readers may believe) and the Wilsonian principle of self-determination, that is, peoples have the right to choose independence—or not.

To be sure our interest in our nearest neighbors, Canada and Mexico, is greater than it is in Paraguay, Chad, or Mongolia. And just as Canadians have felt free to express their opinions over how the United States should be governed, U.S. leadership is not unwilling to make its point of view known either. Nevertheless, nonbiased observers can conclude that we have adhered reasonably well to both the principles of noninterference and self-determination of peoples.

Certainly, given the global and historical alternatives, life beside the United States has been congenial.

Following is a brief review of recent U.S. official positions regarding Canada.

The Carter Presidency (1977-1981)

What may be blithely called the modern era of the Quebec independence began, so far as U.S. recognition of such, in the 1970s with the rise of the Parti Québécois. As the PQ phenomenon and its victory in the 1976 Quebec election was the first significant independence movement in North America for more than a century, it was doubtless a subject of attention. And so, following meetings in Washington with Prime Minister Trudeau on February 23, 1977, President Jimmy Carter was asked in a press conference whether there was U.S. concern over the future of a united Canada and whether the United States could do anything about it.

Carter replied that there was a great deal of U.S. concern and that he had "complete confidence…in the sound judgment of the Canadian people." He elaborated in the first of the U.S. statements that would become "the mantra" by saying, "My own personal preference would be that the commonwealth stay as it is and that there not be a separate Quebec province. But that's a decision for the Canadians to make. And I would certainly make no private or public move to try to determine the outcome of that great debate."[9]

For this statement, Carter was taken to task, notably by the U.S. press in a *Washington Post* editorial that questioned "any statement that smacks of interference in internal Canadian affairs." It further suggested that Carter the citizen or even Carter the candidate could have a "personal preference," but that what Carter the president says assumes "the full weight of official American policy." The editorial ended by counseling that Carter should have simply said that Quebec's future is a decision for Canadians to make.[10]

One obvious consequence of the developing Quebec independence movement was a classified U.S. interagency study completed in August 1977, titled *The Quebec Situation: Outlook and Implications*. Eventually, it became public knowledge when it was obtained through a Freedom of Information Act (FOIA) request by author Jean-François Lisée and incorporated in his 1990 book, *In the Eye of the Eagle*. One can be sure that freedom of information requests on Canadian issues have been handled with much greater care in subsequent years.

Although elements of the study are dated, there are some useful passages that are still worthy of recollection. Thus in the final sections on "U.S. Preference" and "U.S. Policy," the language states flatly that "U.S. preference, as stated by the President, is a united Canada." It continues

> *"It is therefore in our interest that Canada resolve its internal problems. How this is done is of*

course primarily for the Canadians themselves to decide, but we have a legitimate interest in the result and must consider whether there is any positive policy in this regard that we can pursue.…

"It should also be kept in mind that Quebec does meet generally accepted criteria for national self-determination in the sense of ethnic distinctiveness in a clearly defined geographic area with an existing separate legal and governmental system. There is also no question regarding the basic long-term viability of an independent Quebec in the economic sense or in regards to its ability to be a responsible member of the family of nations. The unresolved and determining factor is and must be the will of the people of Quebec."

The study identifies the basic positions of the United States:

"The U.S. considers the Quebec situation to be one for the Canadians themselves to resolve;

"The U.S. considers Canadians completely capable of resolving the question; and

"The U.S. prefers confederation."

In operating on these lines, the study proposed that the United States adhere publicly to these positions (reflecting the February 1977 statements of President Carter) and privately with Ottawa "reiterate its expressed willingness to consider ways we might be helpful on the Quebec question…" if the Canadian government thought that would be useful.[11]

To the author's personal knowledge, which one might take as indicative but not definitive, the United States has not formally revisited this 1977 study. It has been neither endorsed nor gainsaid. To be sure, over the intervening decades there has been analytic reporting by the pound from the U.S. Embassy in Ottawa and our consulates in Montreal and Quebec City; nonetheless it appears the United States deliberately decided not to revisit the assessment. Anecdotally, when the question arose in 1995, the U.S. Embassy in Ottawa argued against such an assessment on the grounds that (a) the knowledge that such an assessment was being done would leak; (b) regardless of the judgments, the fact of such a study would imply that the United States was preparing for an independent Quebec; and (c) "sufficient onto the day is the evil thereof," that is, U.S. reaction to an independent Quebec would not be driven by any previous study, but by political decisions at that time.

It is clear that the United States adhered to the public positions identified in the policy study. When visiting Ottawa on April 23, 1980, Secretary of State Cyrus Vance was questioned regarding U.S. policy toward the forthcoming May 20 Quebec referendum. The secretary responded simply: "Our view is that this is an issue which should be decided by the Canadian people and will be decided by the Canadian people."

Not content with this statement, another reporter tried again by asking if the United States would recognize Quebec's right to self-determination if it decided on independence. No fool he, Secretary Vance characterized it as a "speculative" question on which he did not wish to comment. He continued by saying: "I have already stated that this is a question for the people of Canada to decide." He ended with a terse, "That is all I wish to say."

But Canadian reporters are persistent, and still another circled back to the issue by suggesting that Secretary Vance was not going as far as President Carter had done in expressing his interest that Canada stay together. Staying on message, Vance emphasized that he was "not repudiating anything the President said. I'm saying that this is a question for the Canadian people to decide."[12]

Pretty clear. The emphasis was noninterference and self-determination.

The Reagan Years (1981-1989)

During the Reagan administration the Quebec issue appeared resolved; the 1980 sovereignty-related referendum, even in elliptical form, had been cleanly defeated. By 1985 the PQ was out of office, the federalist-oriented Premier Robert Bourassa was in power, and impetus for sovereignty was at low ebb.

This was also a period when the U.S. secretary of state and the Canadian foreign minister met once or twice a year to "review the bidding." While presumably "Quebec" as a topic was included as a tab in briefing books, it surely did not feature in public comments or press conferences—at least not in readily available reference material.

A typical meeting in October 1984, for example, highlighted discussion on the hot environmental topic of the era: acid rain. At several points, both Secretary George Shultz and Foreign Minister Joe Clark observed that it was possible to disagree without being disagreeable.[13]

The topic was so far removed from day-to-day political realities that President Reagan's address to Parliament on April 6, 1987, did not mention the word "Quebec" or touch on national unity. Instead, twice interrupted by hecklers (politeness being reserved for non-Americans), the speech addressed the politico-military challenges of the still frigid Cold War to include the logic behind strategic missile defense, comment on the possibilities of a free trade agreement, and movement toward an agreement on acid rain.[14]

While in their many conversations and meetings, particularly at the "Shamrock Summit" in Quebec City in March 1985, there may have been private discussion of Quebec nationalism, it was not a subject reflected in Reagan's public papers. But the short judgment appears to be that Quebec was simply not an issue and fell into the "sleeping dog" category.

The George H. W. Bush Administration (1989-1993)

Apparently stimulated at least in part by the release of the previously classified 1977 U.S. study of Quebec in Lisée's *Eye of the Eagle* analysis and the ongoing effort by Prime Minister Mulroney to review the status of Quebec within Canada, the issue resurfaced during the Bush administration.

At least twice, the president addressed the topic.

During a news conference with Prime Minister Mulroney in Toronto on April 10, 1990, President Bush was asked whether he was concerned with the rise of independence sympathy in Quebec. In response, he commented: "I think, rather clearly, that's a matter for Canada; and it's not a matter that would be helpful for me to involve myself in or the United States Government to be involved in. It's the internal affairs of Canada.

We have always enjoyed superb relations with Canada, and a unified strong Canada is a great partner—has been, and will continue to be. But I think it would be inappropriate to comment further on a matter that is not an agenda item nor one that I feel comfortable getting into.[15]

Less than a week later, at a press conference on April 16 with foreign journalists in Washington, President Bush was probed twice on the Canadian national unity point.

The first question cited the declassified U.S. material to ask about current U.S. concerns over its relations with Canada and Quebec. Apparently, half in jest, Bush responded that the United States would "courageously sit on the sidelines." More specifically, he commented, "We have always enjoyed the most cordial relations with a unified Canada… this is not a point at which the United States ought to involve itself in the internal affairs of Canada. And a few minutes later, when pressed further by a journalist as to why the United States was emphasizing its preference for a "strong, unified Canada" and what difference it made whether or not the United States dealt with a separate Quebec, Bush stressed that: "…It makes the difference that this is the internal affair of Canada. And I learned something long ago: Do not intervene in the internal affairs of another country. That's pretty hard sometimes. In this one, it's easy."[16]

Since George H. W. Bush did not address Parliament, there is no formal text directly addressing Canadian issues at the highest level. Nevertheless, analysis of the foregoing media-directed statements is pretty uncomplicated: noninterference and self-determination. The first response by President Bush is somewhat unstructured; the second appears to reflect a tighter briefing book type statement.

There is, however, a slight albeit subtle variation between the April 10 and April 16 statements. That is, in the April 10 statement, the initial remark focused on nonintervention with the second statement referring to the positive nature of the U.S. relationship with a strong, united Canada. In the April 16 statement, the emphasis is reversed. It opens with the stress on the "most cordial relations with a unified Canada," followed by a commitment to noninterference in Canada's internal affairs.

Whether anyone in the George H.W. Bush administration reviewed the 1977 policy paper in detail, the results were still the same; that is, national unity is Canada's business, but the United States prefers a unified Canada. One can detect a strengthening in the emphasis of preference for a unified Canada. Thus the relations are described as "superb" and "most cordial" with a unified Canada depicted as a "great partner." Nevertheless, President Bush's most emphatic emphasis is on "keep out of this issue."

The Clinton Years (1993-2001)

As Canada entered the last decade of the twentieth century, the prospect of renewed crisis over Quebec's status within the Canadian confederation was as visible as a slow motion train wreck. The Mulroney government had exhausted itself with increasingly divisive efforts to resolve the Quebec-Canada relationship. Both of these efforts, the Meech Lake Agreement and the Charlottetown Accord, had failed in memorable acrimony. Heading into 1993, the Tory government wasn't "toast," it was cinders. And a Liberal government was as likely to return to the constitutional wars as to seek to become "the 51st state of America" (to quote a prominent Liberal politician of the day).

That left the next step to Quebec sovereignists—and to be sure, they had a plan that they clearly communicated. Then-deputy PQ leader, Bernard Landry, spoke to a U.S. diplomat of a "three part game." First, defeat Mulroney; then defeat Liberal Quebec premier Robert Bourassa; then hold a referendum. Thus there were no surprises associated with the game plan, and one unspoken subtext was to assure that the United States did not respond to developments from surprised ignorance or unscripted reaction. The question was whether the sovereignists would be able to execute their plays. One recalls the Vince Lombardi maxim with the 1960s Green Bay Packers: he didn't care if the opposition knew what plays he would run, he simply believed that they could not be stopped.

Thus, during this 1992-95 period, the U.S. government stuck with its basic mantra: "The United States enjoys excellent relations with a strong and united Canada. Canada's political future is, naturally, for Canadians to decide."

To repeat the point, the "mantra" language struck two themes: support for Canadian unity and recognition that internal Canadian domestic issues are for Canadians to decide (the Wilsonian concepts of self-determination of peoples plus noninterference with Canada). Analysts will note again the importance of placing our positive statement first. Likewise, they may note that indicating that the decision was for "Canadians" to decide; the United States did not indicate which "Canadians." Although the U.S. preference was obvious (for who would want to alter an "excellent" relationship?), over the years the political impact of the formulation was perceived by some to have lessened.

Ambassador James Blanchard, as recounted in his memoir, notably indicated his concern that it was all well and good to say that Quebec was an issue for Canadians to decide, but "separatists took this to mean the United States could live with any result, or didn't care, or secretly favored separation."[17] Ambassador Blanchard, as described throughout his account, pressed (with the agreement of the Canadian government) for stronger formulations of U.S. support for the existing Canada.

The first element of this repositioning came with President Clinton's visit to Canada and his speech to Parliament on February 23, 1995, in which he presented a relatively standard rendition of the mantra: "The United States, as many of my predecessors have said, has enjoyed its excellent relationships with a strong and united Canada, but we recognize…that your political future is, of course, entirely for you to decide. That's what a democracy is all about." The statement was deliberately followed by a quotation from President Truman's 1947 address to Parliament: "Canada's eminent position today is a tribute to the patience, tolerance, and strength of character of her people. Canada's notable achievement of national unity and progress through accommodations, moderation, and forbearance can be studied with profit by sister nations." And Clinton concluded by saying, "Those words ring every bit as true today as they did then."[18]

During the day, President Clinton subsequently defused the virtually mandatory meeting with the leader of the Official Opposition, Bloc Québécois leader Lucien Bouchard, by meeting with both Bouchard and Preston Manning, leader of the slightly smaller Reform Party. The president did not engage in any substantive discussion with Bouchard and deliberately avoided the

standard "grip and grin" photo. Later that evening, at the formal dinner in the Museum of Civilization, he concluded his remarks with "Long live Canada! Vive le Canada!"

In a departing press conference, the president declined further elaboration, noting in response to a question the reality which was obvious to all except the inquiring reporter, "I said everything I had to say yesterday, and I think that most reasonable people reading or hearing my words knew what I said and processed it accordingly." In response to further prodding as to whether he preferred to see Canada united, Clinton commented, "You can assume that I meant what I said yesterday."

And so circumstances stood until well into the October referendum campaign. As noted above, through much of the summer and early fall, the federalists believed themselves solidly in command of the argument, and their belief was reflected in the polls. However, following Bouchard's assumption of leadership in the referendum campaign, the polls tightened considerably, and U.S. language was adjusted further.

Consequently, during a Washington visit by then Foreign Minister André Ouellet—timed not accidentally for late October—Secretary of State Warren Christopher outlined U.S. policy in somewhat more extended form in a press availability on October 18:

> *"I don't want to intrude on what is rightfully an internal issue in Canada. But, at the same time, I want to emphasize how much we've benefited here in the United States from the opportunity to have the kind of relationship that we do have at the present time with a strong and united Canada. I think it is probably useful for me to say that we have very carefully cultivated our ties with Canada and they've been very responsive in connection with all of those ties. I think we shouldn't take for granted that a different kind of organization would not obviously have exactly the same kind of ties. And I don't want to try to participate in the internal debate there in any way, but I do want to emphasize the very, very important value that we place—the high value that we place on the relationships that we have with a strong and united Canada, as reflected by the kind of personal relationships that I have with the foreign minister and that the president have [sic] with the prime minister."*[19]

Although the core of Secretary Christopher's convoluted statement was the "mantra"—essentially repeated twice—the new element was the intimation that "we shouldn't take for granted that a different kind of organization would not obviously have exactly the same kind of ties." Presumably this sentence was to imply that the many political and economic bilateral agreements with Canada would not instantly apply to an independent Quebec. But the statement was opaque and lawyerly; it could be read as the obvious—the relations between three countries would be different than the relations between two. But what that reality would mean in practical terms was not even hinted.

Understanding that the referendum issue remained very much in doubt, on October 25 President Clinton followed with an orchestrated response to a prearranged press

question in a self-described "careful answer."

Echoing the 1947 Truman statement (cited above) in his address to Parliament, Clinton spoke of Canada as a "model…of how people of different cultures could live together in harmony." While noting that the referendum was "a Canadian internal issue for the Canadian people to decide" and "in which he would...not presume to interfere," the president emphasized that "a strong and united Canada has been a wonderful partner for the United States, and an incredibly important and constructive citizen throughout the entire world." He continued that "everybody's got problems," but Canada is "a country that is really doing the right things, moving in the right direction [and that] has the kind of values that all would be proud of." He closed his remarks by stressing that Canada has been "a strong and powerful" ally" and …"a great partner for the United States, and I hope that can continue."[20]

This was a strong, straightforward statement; the positioning of the "noninterference" language is clearly subordinate to the positive views of a united Canada. Nevertheless, the specific effect of this statement is unknowable. As it was delivered on the same day that Prime Minister Chrétien and Bouchard addressed the country, its effects were muted. Still, for those who were conditioning their position on the views of the United States, these were perfectly clear. And consequently the success of the "no" vote on October 30, 1995, has many fathers claiming parentage.

The Mont-Tremblant Codicil

In the waning days of his presidency, on October 8, 1999—less than a year before the presidential election, President Clinton returned to Canada to address the Forum of Federations Conference in Mont-Tremblant, Quebec. At this juncture, speaking on federalism generally, and with Quebec's then-Premier Bouchard in the audience, Clinton offered a further elaboration on the U.S. perspective. The speech he delivered, which was significantly longer than his address to Parliament (and reportedly much of it composed extemporaneously), included a traditional "mantra" style statement and the following excerpts:

> *"…In the United States, we have valued our relationship with a strong and united Canada…the partnership you have built between people of diverse backgrounds and governments at all levels is what this conference is about and, ultimately, what democracy must be about …"*
>
> *"It seems to me that the suggestion that a people of a given ethnic group or tribal group or religious group can only have a meaningful communal existence if they are an independent nation—not if there is no oppression, not if they have genuine autonomy, but they must be actually independent—is a questionable assertion in a global economy where cooperation pays greater benefits in every area of life than destructive competition….*
>
> *"We have spent much of the 20th century trying to reconcile President Woodrow Wilson's belief that different nations had the right to be free—nations being people with a common consciousness—had a right to be a State and the practical knowledge that we all have that, if every racial*

and ethnic and religious group that occupies a significant piece of land not occupied by others became a separate nation—we might have 800 countries in the world and have a very difficult time having a functioning economy or a functioning global polity. Maybe we would have 8,000. How low can you go?...

"I think when a people thinks [sic] it should be independent in order to have a meaningful political existence, serious questions should be asked: Is there an abuse of human rights? Is there a way people can get along if they come from different heritages? Are minority rights, as well as majority rights, respected? What is in the long-term economic and security interests of our people? How are we going to cooperate with our neighbors? Will it be better or worse if we are independent, or if we have a federalist system?...

"I think the United States and Canada are among the most fortunate countries in the world because we have such diversity; sometimes concentrated, like the Inuits in the north; sometimes widely dispersed within a certain area, like the diversity of Vancouver. We are fortunate because life is more interesting and fun when there are different people who look differently…."[21]

This Clinton speech, however, had only short-term effect. Although at least implicitly directed at Quebec, there was but glancing reference to the province by name in the extended address. Instead, the examples of problems of federalism and independence were drawn from current international problems, e.g., the former Yugoslavia, East Timor, and various African tribal groups. Thus the speech could have been given anywhere in the world with federalism as its theme. Although there was a burst of fuss and feathers in the media, subsequent reference to it was rare.

Further Evolution of the Formulation and the George W. Bush Administration

In effect throughout the George W. Bush presidency, the U.S.-Canada-Quebec issue returned to the proverbial "sleeping dog" status of the 1980s. We had many political, economic, social, and foreign policy differences throughout the Bush incumbency; many went unresolved in the near term and are equally unlikely of solution in the long term. None, however, has involved national unity. Canadian political developments, including continuation of the Liberals in power (succeeded by a federalist Conservative party in 2006), the passage of the "Clarity Act" endorsed by both Liberals and Conservatives, and the election of a federalist party in Quebec put national unity as an issue aside during the "Dubya" Bush incumbency. Although "asymmetric federalism" again reared its head following agreement on health funding between Ottawa and the premiers, and both the PQ and the ADQ advanced views on Quebec's position in (or out) of Canada, the desire to return to constitutional revision was nominal. And with the PQ out of power, its preferences were politically irrelevant.

Consequently, the latest U.S. variant of the "mantra" rested quietly in briefing books

and press availability folders. At the time of a Quebec studies conference in November 2004, it reportedly would have been stated along the following lines: "The administration's position on Quebec's constitutional status is that it is an internal matter for Canadians to decide according to their own political and legal system. The United States has always valued its close and productive relationship with a strong and united Canada. We greatly admire what Canada has achieved, and see it as a model of how different people of different languages and traditions can work together in peace, prosperity, and respect."

There was not much that could be teased out of such language other than the general observation that each administration wants to put its "stamp" on policy formulation. The formula led with the non-interference and self-determination sentence that had been reduced in visibility for Clinton era language. Does "close and productive" vary significantly from "excellent" (Clinton's parliamentary speech)? It is less effusive than Clinton's October 25, 1995, comments labeling Canada "a strong and powerful" ally" and "…a great partner for the United States, and I hope that can continue." On the other hand, the final sentence reflects the tone, if not the exact words, of Clinton's Mont Tremblant speech by offering the United States' great admiration for Canada's achievements and identifying it as a "model" for multicultural success. It still reflects the basic 1947 Truman speech to Parliament.

Subsequently, the "mantra" evolved further. As of mid-2008, its baseline condensed language conveyed, in effect, the following: "While the U.S. has always supported a strong and united Canada, this is a matter for Canadians to decide."

An analyst could conclude that the United States returned to its basic position of approximately 15 years earlier. It eliminated the persiflage and convoluted linguistic elaboration in attempting to support Canadian national unity without opening itself to charges of interfering in Canadian affairs or betraying essential principles of national self-determination. Our preference remained clear: noninterference and support for self-determination.

The Obama Administration

Although there is an almost genetic political lust to revise the structures and formulations of previous administrations, the Obama administration as of mid-2013 had not significantly altered the previous scripted reaction, perhaps because there has been no requirement to deploy it. That said, the administration has been neck deep in major domestic and international problems from the moment the last echoes of the inaugural speech left the Capitol steps. There are specific long-standing bilateral problems but these are systemic, not existential. And the "Quebec sovereignty" issue is the equivalent of a canister clearly marked "worms" that there is no reason to decant.

Thus there is every reason to believe that for the near term, we will be prepared to deploy a bland statement reiterating the mantra of U.S. noninterference and Canadian self-determination. The most recent of these blandness exercises was expressed by Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson following the 2012 Quebec election in stating, "… the question of separatism and Quebec have always been and will always be issues to decide between Canadians and not issues on which the United States must decide. We

therefore see little difference with respect to our relationship with the Government of Canada, which remains strong."

Retrospectively, Canadians noted privately that the United States "interfered" during the 1995 referendum, but they appreciated that it was done with finesse. At the same time, however, they subsequently remarked "this far and no further" regarding U.S. statements on Canadian national unity. That said, the United States cannot now predict what Canadian federalists would ask of Washington in some future referendum campaign. Canadians have told U.S. officials that U.S. interventions were definitive—a judgment difficult to quantify during a period when dozens of initiatives were in play. And, as remarked above, success has a thousand fathers, so perhaps the U.S. government shares in the paternity suit with implicit consequent responsibilities.

Nevertheless, the United States can assume that at least some senior Canadians believed that U.S. action was pivotal and that, no matter what party is in power in a sovereignty crisis, if there is a next time, they will remember the White House phone number. Assuming they will want more than the current "mantra," the U.S. administration that next has to deal with the issue will need to make a careful calculation whether more open intervention would be counterproductive, such as in the form of a legal "finding" that an independent Quebec would not qualify for the North American Free Trade Agreement (NAFTA). Some assume, perhaps blithely, that with sufficient rhetoric the U.S. government could assure a "no" vote. But the question arises whether that level of intervention would prompt the conclusion among Canadians that Canada exists not on its own merits, but only because the United States wants it to endure.

The Essential (and Eternal?) Question: Do Quebeckers Really Want Sovereignty?

Let us assume that Quebeckers could have independence if they really wanted it. Although there are experts on the Clarity Act who identify detailed requirements for sovereignty (including agreement by the Rest of Canada), the government of Canada has said that if Quebec voted "yes" on a clear question, it would be virtually impossible to prevent independence. Yet, a curious lack of emotion over the issue now exists in Canada and Quebec. Oh, to be sure, the intellectual fibrillation remains sufficient to fill libraries, but the passion that creates (or sustains) nations appears absent. No Quebeckers are willing to commit "our lives, our fortunes, and our 'sacred honor'" for Quebec independence. Conversely, no Abraham Lincoln can be found in the ROC—no one who could say "liberty and union; now and forever; one and inseparable" and not appear ridiculous.

Even less likely is revolution (or suppression of a Quebec rebellion) by force of arms. Indeed, such explosive violence might be American, but it is not Canadian. And Canadians sometimes appear rather smug over their unwillingness to fight to preserve their country. "No violence, please: we're Canadian."

One moves slowly to the conclusion that if Quebeckers could have everything they have now and sovereignty, too, they would vote "yes" in a heartbeat. But if risks are involved—if it would lower personal income, rile the neighbors, interfere with Saturday hockey night, and so forth—they are less interested. As the proverbial old lady once said about sex, "They can do anything they want to do

so long as they don't frighten the horses." If Quebeckers could get sovereignty without "frightening the horses," such would be (to mix metaphors) "egg in their beer." After all, Quebeckers are hardly a persecuted minority. As former BQ leader Gilles Duceppe once said, "Canada is not the gulag." Indeed, Quebeckers like Canada; a *Maclean's* poll in 1995 cited 91 percent of Canadians as believing Canada was the best country in the world for people to live; and 83 percent of Quebeckers were willing to make the same conclusion.[22] What bothers Quebeckers is not Canada and Canadians; but the relationship between Quebec and Ottawa—that is, the federal-provincial relationship.

One prominent francophone journalist put it neatly, "Quebec is not Canada translated into French." The current arrangements simply still do not satisfy many Quebeckers, and the long term viability of Canada will remain in question unless and until they are resolved.

Let the Erring Sister Go?

But interestingly, just as Quebeckers—at least for the middle term—have appeared more willing to remain as a "nation" within Canada, the ROC appears more willing to let them go. Individuals who would have been regarded as high-church federalists five or 10 years ago now say quietly that the political and economic distortions required for accommodating Quebec may not be worth the price. The 2007 reprinting of a small, thoughtful book, *Time to Say Goodbye*, by Quebec anglophone Reed Scowen suggests that both Quebec and the ROC could live in greater harmony as separate states. This attitude is reinforced by those who suggest that Ottawa should investigate the parameters of the Czechoslovakia "velvet divorce" in 1993 that now, more than 20 years later, resulted in two countries prospering very nicely and with amicable relations.

Separatists will happily agree and make the same argument, to wit, Quebec independence would be good for both Quebec and Canada, giving each greater freedom to go their own ways without burdening or being burdened by the other.

Francophones say that, for the moment at least, they are going nowhere; having obtained the "game" of essential political control of their province replete with heavy-duty fiscal support from Ottawa, they are content to let the "name" hang in abeyance. And this reality is what galls more than a few federalists. They are supremely tired of the constant importuning litany for "more" that comes from Quebec; separatists are neither grateful nor gracious in their demands. Particularly amusing (not) was a photograph at the time of the proposed "Coalition" in December 2009 between the New Democrats and the Liberals with implicit BQ support. The photo caught then-BQ leader Gilles Duceppe moving forward with his hand outstretched, a stance easily interpreted as "pay me now—and pay me later." Nor has the creation of a majority Conservative federal government following the 2011 election that does not require Quebec support (only five Conservative MPs are Quebeckers) significantly diminished the attention Ottawa directs to Quebec. Prime Minister Harper has taken the "we don't need you, but we want you" approach (HST reimbursement and Champlain Bridge funding), which demonstrates Quebec's continued leverage. Although the Marois PQ minority government as of mid-2013 continued to maneuver to further pressure Ottawa for greater financial

support, it was still a muted effort designed not to "frighten horses."

Nevertheless, Alberta in particular believes that the transfer payments provided to Quebec cost every Albertan thousands of dollars per year. Quebec sovereignists bitterly dispute the statistics calculating how much Quebec benefits, claiming that they receive no more than they give to Ottawa in taxes. Illustratively, in an outburst of vitriolic vocal irritation, the frequently irritated premier of Newfoundland and Labrador, Danny Williams, blasted Quebec in June 2010, claiming the "tail is really wagging the dog, and it must stop." Williams and Newfoundland and Labrador were engaged in a long-standing argument over hydroelectric production and transmission fees (a 65-year contract lasting until 2041 that significantly disadvantages Newfoundland and Labrador). And while such impatience does not lead to the conclusion that Canadians would happily say "goodbye" were a new referendum to arise, it suggests that Canadian unity may persist as much by apathy and lack of challenge than by the personal passions of its citizens. When every benefit accorded Quebec is regarded as obeisance to a spoiled sister rather than cheerful sharing of the family largesse, it is a bad omen for family harmony.

Indifference

Still there are those that have seen a modest rebuilding of the sinews of national unity—or at least benign acceptance. The 2010 Vancouver Olympics was carefully designed and scripted (particularly following some opening ceremony complaints) to balance the use of both the French and English languages, and Quebeckers were prominent medalists. Moreover, both anglophones and francophones cheer the "Habs" (Montreal Canadiens hockey team) with reportedly the audience now standing and singing the Canadian national anthem when they declined to do so in previous years. These are small straws in a gentle breeze that would not survive a referendum maelstrom, but not previously blowing in the wind.

Nevertheless, in short, if a nation is not willing to fight to survive, it puts its future, even its existence, at risk with every referendum.

What Would an Independent Quebec Mean?

It has been many years since a comprehensive national estimate was made of the effects Quebec independence would have on the United States. As noted above, the most widely known official estimate was done in 1977 and inadvertently published in 1990 in Jean-François Lisée's, *In the Eye of the Eagle*. If there is ever a "yes" vote in a referendum, the results for Canada and Quebec will occur in slow motion rather than in revolutionary lightning bolts and blood in the streets; they will allow time for comprehensive U.S. assessment. Nevertheless, some baseline judgments are possible:

Quebec Is Not a Security Threat

In its early days, the potential for a PQ-run Quebec becoming "a Cuba of the north" was much bruited about. The PQ was depicted as another variant of the terrorist *Front de la Libération du Québec* (FLQ) with a radical socialist agenda. Others worried over a gap in North American air defense (NORAD) and a weakened Canadian commitment to NATO.

Time has eliminated such concerns. The Soviet air threat no longer exists. Separatists plausibly promised continued commitment to NATO and NORAD. Indeed, any Quebec military is likely to be small, lightly equipped, and focused on UN peacekeeping at the maximum, as Quebec's interest in military security that results in body bags has been and remains marginal.

Quebec is Democratic

At inception, the PQ's commitment to democracy was questioned. Although the PQ has social democratic roots and an element of social and labor activism, more than 40 years of history have proved its democratic track record. It has won and lost elections, contesting them within the framework of parliamentary democracy. The PQ has made no calls "to the barricades." *Péquistes* are political professionals and know that winning an election is just the first step toward losing one subsequently—and vice versa.

Quebec Has a Solid Economy

Quebec does not have Canada's strongest economy; British Columbia and Alberta are in better shape and, for all its circa 2013 problems, Ontario remains Canada's powerhouse (Table 1). Nevertheless, Quebec's budget has been balanced in the past and, as the Great Recession ends, it appears reasonably sound. Still, Quebec's unemployment statistics, debt levels, and taxes are above Canada's average. Nor is provincial governance particularly efficient—but neither is it blatantly corrupt (although the Charbonneau Commission's findings may alter this judgment), and the society and economy work relatively well.

Quebec's commitment to free trade, as epitomized in the bilateral U.S.-Canada FTA and subsequent trilateral NAFTA, is a political absolute—a *sine qua non* for an export-oriented economy. Indeed, the PQ can claim with considerable justification that its support throughout the 1988 Canadian election was pivotal for free trade, as both Liberals and New Democrats opposed such an agreement, and Quebec's seats were vital for Mulroney's reelection. Quebec's former premiers, Bernard Landry and Jacques

Table 1

Canadian Provincial Economies, 2011

(All monetary figures in Canadian dollars)

	Ontario	Quebec	Alberta	British Columbia
GDP in billions (C$)	654.5	345.8	295.2	217.7
Growth (percent)	1.8	1.9	5.1	2.8
Unemployed Percentage (2012)	7.7	7.4	4.5	6.3

Note: Figures demonstrate Quebec's strong, but mixed, economic picture. To provide some perspective, Canada for 2011 had a 2.6 percent (constant dollar) growth and 7.0 percent unemployment in 2012.

Source: "Provincial and Territorial Economic Accounts

Parizeau, were both sophisticated economists and the drivers behind the PQ commitment to free trade—a commitment that has persisted after their retirement. Quebec's economic dependence on the United States would be at least as strong as Canada's. Consequently, the separatists are notably twitchy over U.S. intimations that NAFTA entry for an independent Quebec would involve "numerous, complicated legal issues" with "no assurances on accession" for Quebec.

Prospects for violence are overblown

Some apocalypse-tomorrow scenarios (for example, *Breakup* by Lansing Lamont) have suggested substantial violence attending a separation of Quebec from Canada, but these exercises appear more novelistic than realistic. This is not to ignore the prospect of violence, but the specters of Bosnia intimated by some federalists are absurd. Is Canada less civilized than Czechoslovakia? Less rational than Norway or Sweden? No. Far more likely would be intense negotiations, bitter hard feelings and recrimination, and a degree of economic unease, lasting a generation.

But What If?

So far as the United States is concerned, the past is prologue. No one should expect significant change so far as bilateral policy and "mantra"-style language. For more than three decades, the U.S. government has been remarkably consistent in its basic premises that we hope that Canada will stay united (it is in our self-interest), but the country's political future lies in its own hands. Mantra language has been fiddled, but several U.S. administrations of Democrats, Republicans, Democrats, Republicans, and Democrats again have adhered to it. Still, Quebec begs the "what if" question and, while our politicians have artfully avoided any public speculation, that does not prevent non-official citizens on both sides of the border from playing the "what if" game.

To repeat: U.S. attitudes toward Canadian unity are self-interested. Better the devil you know than two devils you don't. There is no more intermingled, absorbingly mutual, and complex international interrelationship than that between the United States and Canada; indeed, there probably are no elements of our societies that do not relate to each other in some manner. Attempting to recreate a relationship would be endlessly complex, and with the litigious attitudes that characterize both countries, one can be sure that we would be sorting out the legal ramifications of a breakup of Canada long beyond the life expectancies of those who smashed the crockery. Doing probate over the estate of "Old Canada" while trying to manage relations with successor states would be challenging. We have, even at the worst of times, an effective working relationship with the Canada we know. Absent the massive depredations associated with the worst of regimes, we have been historically reluctant to call for change, let alone to urge the breakup of a country.

In that regard, doubtless we are conditioned by our historical experience of the Civil War, which remains the bloodiest conflict in which we have ever engaged so far as the loss of American lives is concerned. And the number of countries able to negotiate a "velvet divorce" such as Czechoslovakia transmuting into Slovakia and the Czech Republic is fewer than those whose citizens vigorously and apparently cheerfully slaughtered one another while separating, e.g., Pakistan and India and

Yugoslavia's shard states. Consequently, even when elements of a country are rending their socio-political fabric, we have urged that they resolve their problems and give national unity another chance.

Perhaps we are international marriage counselors rather than divorce lawyers.

Were Canada to totter again to the brink, the United States would again repeat its concerns. If history is any guide, we would make statements (with intensive private coordination with the federal government) designed to walk again the careful line that we navigated in 1995. Perhaps, we would dust off some of the old studies suggesting that "things would not be the same." And countervailing studies would appear saying, "things would be better." But these are the type of studies that lawyers are paid to produce: you ask your lawyer to provide an opinion supporting your position and you get what you purchased. What the reality would be may or may not accord with the particularistic study.

Nevertheless, while unenthusiastic about countries dividing up, the United States has accepted de facto realities. Thus our relations with the states of the former Soviet Union are straightforward, as are our relations with the broken crockery of former Yugoslavia, which demonstrate just how contentiously unpleasant such separation can be. And, to be sure, if these countries chose to reassemble their smashed dinnerware, we would not argue that it need not be done.

And there is no reason to believe that our relations with Canada, whole or in part, would not follow a comparable form. And that is not to say that a separating Canada would content itself with dividing into only two parts.

An Interim Conclusion

The United States has a strong and continuing interest in Canada and Canadian unity. One U.S. objective in our bilateral relations remains Quebec-Canadian stability. In this regard, it does not really matter which party is governing in Ottawa or what other points of discord or congruence exist in our bilateral relationship. No nation works perfectly, and a multicultural, multiethnic society has problems inherent in its composition. Instinctively, the United States sees parallels between itself and Canada as alternative North American societies; and it wants its northern neighbor to "work" and to succeed in its experiment as an implicit harbinger of fate of the comparable U.S. social experiment. That said, at times even the best of friends or the most skilled of counselors cannot make a relationship function, particularly if one of the partners does not want it to do so or has given up on the concept of the relationship.

Just as it takes two to make peace but only one to make war, it takes two to make a relationship work, but only one to rip it asunder.

Thus, although it is clear that a united Canada is in the U.S. interest, it is equally clear that the United States could live with a disunited Canada. Present and future U.S. administrations should and will continue to express support for a united Canada, but its dissolution would be a pity rather than a global tragedy—and certainly not a catastrophic tragedy along the lines of those one could name from the history of the twentieth or thus far in the twenty-first century.

At the same time, the Quebec versus Canada contretemps demonstrates a duality that

the United States must avoid: a section of the country that becomes an enclave for a distinctive ethnic, religious, or linguistic group. There is no issue that Canada encounters that does not devolve into a Quebec-ROC issue, and consequently Canadians expend disproportionate energy on the political equivalent of keeping two standing canoeists from capsizing the craft.

In the words of the 1977 policy assessment, the U.S. government should "reiterate [its] expressed willingness to consider ways [it] might be helpful on the Quebec question, if the government of Canada should conclude that the United States government could play a useful role."[23] Nevertheless, U.S. support for Canada cannot be open-ended and any U.S. administration should retain for its ultimate guidance the assessment's conclusion: "The unresolved and determining factor is and must be the will of the people of Quebec."[24]

Thus if there is ever an independent Quebec, *Vive le Québec*. If not and until then, *Vive le Canada* and "Long Live Canada."

11 REGARDING THE WEST: THE BEST OF TIMES AND ITS DISCONTENTS

As we move deeper into the second decade of the twenty-first century, there is a variety of observations to offer about the Canadian West and its wish for a revised status in the Canadian political spectrum. The following discussion will avoid lumping Manitoba and Saskatchewan into "the West" as these provinces can no more be described as the "West" than Kansas and Iowa can be described under the same rubric as Colorado and California. Thus this analysis, with an occasional illustrative aside, will focus on Alberta and British Columbia.

But to put the question up front, analytic Americans wonder just how long the Canadian West will endure its exploited, "second-class citizen" status in Canada? It is a curious type of self-subordination or self-abnegation that may help illustrate the definition of "Canadian," but is remarkable none-the-less.

Alberta über alles

There is a bounding economic and political exuberance in Alberta that some would label "American." Even more than that, others would say "Republican." Wrong. Wrong on both counts. Although there are certainly close connections between the Alberta and U.S. economies, even closer than for much of the rest of Canada, Alberta economics and politics are very Canadian. Indeed, former U.S. Ambassador James Blanchard has said that he tells Canadians that he simply describes Alberta as a Republican state. Doubly wrong. Alberta is conservative only in Canadian terms (just as the city of Victoria is warm only in Canadian terms). You will find no mainstream Republicans that accept, for example, state-delivered health care, social services, and rigorous gun control on the level that is acceptable to even the most conservative Canadians, including Albertans. And there are no Canadian equivalents to a "conservative Republican" (let alone a "Tea Party" member) outside of physically restrictive mental health facilities. And certainly no politically viable parties profess such policies, not even parties writing their manifestos with crayons.

Despite the Great Recession, the current Alberta economy remains close to boom conditions and certainly will return even further to such as the economy resurges. It is fueled by natural resource: oil and gas production is stimulated by the strength of the U.S. economy with its almost insatiable appetite for energy, regardless of the projections from "fracking" that are pushing U.S. energy production to unprecedented levels. The Alberta economy has generated revenue that pushed budget surpluses to startling heights prior to the 2009 recession. Episodic tensions in the Middle East (particularly involving Iran and the Iraq war), OPEC's desire to extract the last penny of price from its production, declining Mexican production, Russian oil pressures on European clients, Nigerian instabilities, and Venezuelan political hostility combined with increased energy needs in rising states such as China and India drove oil prices from the vicinity of $50/barrel in mid-2004 to "sky-is-the-limit" prices of more than $140 in the summer of 2008. The recession hammered them down, but in late August 2013 they stood at approximately $106.

As one of the most stable, efficient, and productive suppliers of energy, Alberta has obviously benefited and will continue to do so. An eventual agreement to build the Keystone XL pipeline to the Texas Gulf Coast will provide an expanded, assured market for Alberta oil sands indefinitely; options for Northern Gateway and Energy East pipelines simply reinforce the potential for profit. With expanding energy revenues prior to the 2009 recession, Alberta balanced its budget and eliminated in de facto terms its provincial debt; it has no provincial sales tax, and it has a single rate tax on personal income at 10 percent. And there is more: unemployment is negligible in Canadian terms, "tar sands" extraction facilities that drove pre-recession construction boom times are recovering, and spending on social services such as health and education remains up. Health care insurance premiums were eliminated in January 2009. To ease the heightened energy costs during the winter of 2000-01, the provincial government authorized energy-directed rebates. So substantial were these payments that one individual noted that his heating bill for that January was a $50 credit. Alberta continued these rebates, which ran through March 2009, but were subsequently eliminated.

Nor is there any expectation that this boom is a bubble. The worst recession in a generation, did suppress demand somewhat in 2009 and prompted a decline in energy prices; however, as noted above prices have risen again albeit not (yet) to 2008 levels. Admittedly, oil and gas have a boom-bust cycle, but the U.S. demand for energy remains high and can be anticipated to be high indefinitely. Alberta oil complements the increasing U.S. production of oil and gas through fracking. So also the opportunity of Asian markets will prompt demand. And the prospect of an Energy East pipeline to Atlantic Coast refineries is more than a pipe dream. Development of alternative energy sources and conservation remains in between never-never land and maybe-in-a-generation in the minds and plans of those who could implement it.

The Bush 43 administration's proposal for a continental energy plan that includes more pipelines from Alaska and continued serious investment to extract oil from the massive oil sands deposits reflected deep and abiding U.S. interest, regardless of the fate of any specific plan or any U.S. administration. The Obama administration has never gainsaid

the reality of U.S. requirements for secure petroleum energy. Thus the protracted, convoluted anguish over approving the Keystone XL Pipeline has reflected Obama's need to placate his environmental activist supporters rather than really consider the costly, economically questionable alternatives. U.S. energy needs will help keep the money flowing—and Chinese and Indian need for energy can both counter any slack and keep prices high. We can assume that ultimately the Keystone XL Pipeline will be matched with pipelines to the East and West Coasts, despite predictable screams by environmentalists and aboriginal groups, and demands from British Columbia and Quebec provincial governments for a slice of the pie.

Moreover, when one contemplates the magnitude of the 2010 Gulf of Mexico oil spill, even if overhyped by screaming-with-alarm critics, it is hard to be critical of occasional problems in managing production from the oil sands. Alberta carefully avoided *schadenfreude* over BP's catastrophe; the implicit comparison doesn't have to be belabored—it is obvious.

Nor is the Alberta economy a "one trick pony." While agriculture and cattle ranching are no longer the mainstays they were in the early twentieth century, they remain significant economic contributors. Even the virulent "mad cow" restrictions were ultimately lifted (with remarkably little Canadian recognition or appreciation of a Bush administration effort taken against Democrat resistance or the glum reality that these diseased cattle have permanently damaged the U.S. beef market in Asia). Moreover, high tech firms are developing in Calgary, and Edmonton now reportedly has the largest industrial concentration in the Canadian West, outstripping the BC Lower Mainland. Finally, the fiscal rigor that the Ralph Klein government instituted when coming to office in 1993 was a model for responsible governance. It may have been making a virtue of necessity; however, the reasonable fiscal prudence that continued under Premier Ed Stelmach has been a path-less-followed by Alison Redford (selected as Conservative party leader and hence premier in October 2011). Her majority victory in April 2012 cemented the Tory hold on the province, despite a deficit budget. Criticism from the conservative Wildrose Party continues to stress the need for greater fiscal rigor, which Redford has been loath to follow, preferring to run a deficit rather than cut spending.

Earlier, however, Stelmach revised the rules regarding oil royalty payments (too much teeth gnashing by oil companies), which delivers still higher income to the provincial government. The royalty rules were adjusted to assist conventional oil and give drilling incentives to natural gas producers. The heavy "tar sands" oil producers now pay a price-linked royalty scale that in 2011 was projected to provide $8 billion in royalties compared with $1 billion prior to the royalty review. At points before the Great Recession, times were so good that the Alberta Treasury Board reportedly devised safe havens for projected surpluses so they would be available for theoretical "rainy days." With the end of the provincial debt, Albertans were polled in 2004 to determine what they wanted to do with the new largess. No one else in Canada has such a problem—or even can conceive of it.

The economic success, however, is also generating a kind of defensive irritation. One manifestation of this attitude was a thinly disguised contempt in Alberta for the Canadian dollar prior to its rise in 2003-04

and its 2007 to present surge (related to the U.S. dollar reaching approximate parity and occasionally above). As the Canadian dollar declined in value to approximately US 65 cents early in 2001, one proprietor sneeringly referred to it as "the Canadian peso." The announcer at an evening performance of Calgary Stampede rodeo events rhetorically asked Americans in the audience, "How do you like our two for one dollar?" Repeatedly there were references to "two for one"—arithmetically inaccurate as they were—perhaps illustrating where Albertans anticipated at that time their dollar would settle. That this judgment proved inaccurate with the dollar's resurgence in 2009-12 is less important than the observations that Albertans, secure in their economic fortress, believe they have a divine right to a strong dollar and the economic benefits that such entail.

A separate concern has been the problem of success. Growth hurts—or at least it forces infrastructure expenditures to address both rising population (schools, hospitals, and housing) and the consequences of massive oil and gas extraction (road construction, water resource allocation, pollution control, and environment preservation). These expenditures are high cost—and some Albertans, particularly in rural areas or associated with the Wildrose Party, are not convinced that they are necessary, let alone beneficial for them. Following her victory in the 2012 election, Premier Redford seems unlikely to reverse spending, but still must sort out Alberta's fiscal-social priorities.

Political Dynasty

The Tories have done almost everything right and been lucky as well. These are economic times that try men's souls: that is, the souls of men and women in opposition in Alberta. They are forced either into "me-tooism" or ideologist stridency over supposed institutional failures that underlie the generally perceived success. Consequently, when Albertans went to the polls in February 2008, the Tories won a smashing victory with 72 of 83 seats (up 10 from the reduced majority in the 2004 election) and pounded both Liberals and New Democrats to shards. It was particularly satisfying as it served as a transition from the era of iconic "loveable albeit lamentable" Premier Ralph Klein and his replacement by a bland and surprising choice in Ed Stelmach, who proved sufficiently adroit to outmaneuver several more widely known opponents in the leadership campaign. However, to recall an aphorism by a former Ontario premier, "bland works."

Consequently, the Tory victory was particularly irritating—not just to the dismembered opposition that had hoped to take advantage of Stelmach's perceived lackluster leadership, but even more pointedly for the Rest of Canada's liberal chattering class. With ill-concealed yearning, they predicted a "come downance" for the Tories who, in their view, are overly conservative and insufficiently touchy-feely about the environmental consequences (and hence responsibilities) of becoming wealthy.

Redford's 2012 victory reinforced this position—from the opposite direction. Alberta may be conservative in Canadian terms, but not conservative enough in Wildrose Party terms. Personal dynamism evinced by Danielle Smith, the Wildrose leader, was insufficient to budge the majority of Albertans who provided Redford with her majority victory. The Tory grip on the province has now lasted more than 40 years. Given the feeble state of the opposition to their political left and the recovering

economy, it looks like Tories—or certainly "small c" conservatives of the Wildrose ilk—will prevail as far as the eye can see on the electoral landscape. Perhaps more importantly for Alberta's future, this run by the Tories demonstrates that Albertans are uninterested in the ROC's liberal agenda—they will not be hobbling their economic future; they sneered at the federal Liberal 2008 campaign platform program for "The Green Shift." They will have to be beaten into line.

That said, the Alberta Conservatives are not a fat and complacent party—yet. They slid in that direction under the last two terms of the Klein government, having their majority trimmed in the 2004 election. The infusion of new blood in the 2001 election failed to provide continued intellectual stimulus, even after electing representatives from Edmonton ridings that the Tories had not previously held. Lost in 2004, those ridings were regained in 2008. Nevertheless, just as the Tories reinvented themselves by instituting budget cuts and stricter accounting when Klein first came to power, they believe that they will continue to demonstrate adroit flexibility in changing circumstances and perpetuate their rule indefinitely. They effectively did just that when faced with the Wildrose threat from their right. Indeed, it is easier to resolve the problems of success and wealth than those of failure and poverty. The Tories have an unparalleled opportunity to build a model province—the baseline question will be whether they have the vision and coherence to do so.

But the Great Recession also prompted a challenge to the Tories—one from the right in the form of the Wildrose Alliance Party. Wildrose surged in popular support in 2010, fueled by Danielle Smith's dynamism and irritation with Tory fiscal and social policies and Premier Stelmach. By mid-2010 it had assembled a four-member caucus in the provincial Assembly but also gathered popular support in polls that outdistanced not just the traditional opposition parties, but also the government. Some long-time observers of provincial politics predicted that the Tories' time had passed; others said the Wildrose Party's prospects were oil-price dependent, but it could certainly become the Official Opposition. By mid-2011, some of the bloom was off the "Wildrose"; it had sagged in the polls and its election prospects were no longer as rosy. Nor did it recover in early 2012 as ultimately reflected in defeat in the April election. Wildrose appears to be the victim of the reviving Alberta economy as well as adroit leadership by Tory Premier Redford. The party remains poised with 17 of 87 parliamentary seats as a strong opposition and predicts sanguinely that its time will come in the next election. It is hard, however, to bet against continued Tory dominance.

The Ralph Klein Years—A Retrospective

Substantial credit for the Tory political success lies with late Premier Ralph Klein. He overcame an unprepossessing bulbous physique and a semi-alcoholic reputation in managing four consecutive victories (including 2004). No intellectual—indeed initially a high-school dropout who never looked comfortable in a suit—Klein was well attuned to his "severely normal" electorate. He avoided hubris and side-tracked the social conservative enthusiasms (antiabortion, anti-homosexuality, school prayer) of some of his caucus. Moreover, his ministers were reasonably effective, and both he and his cabinet avoided the type of arrogant

corruption often associated with long exercise of political dominance. Obviously, Alberta's deep pockets permitted Klein to cover errors such as miscalculating the consequences of deregulating electricity by offering rebates to consumers and struggling with expensive auto insurance, but he also laid the groundwork for increasing privately supplied medical services (while denying that was his objective).

Personally, Klein had no national objectives—nor national vision. He was "provincial" in every sense of the word. Whether it was due to lack of ambition or an astute appreciation of his own limitations (including being a unilingual anglophone), Klein was Alberta-directed, devoted to the province, and dismissive of Ottawa (once leaving a premiers' conference in Ottawa to visit a local casino). Politically, he proved to be a "one trick pony" for Alberta—restoring fiscal integrity and reducing taxes. While that feat was a "trick" that has evaded more sophisticated leaders elsewhere, Klein subsequently seemed to have nothing in mind beyond political, economic, and social drift—and finally wore out his welcome in the Conservative party when he mused about staying still longer in office.

A Stelmach Advantage?

As a Klein-era minister, Ed Stelmach was probably better known for proposing to reduce highway maintenance costs by reversing the fast and slow lanes than for inspirational or visionary proposals. He had a "steady Eddie" rather than "stellar Eddie" reputation, which left critics arguing that his objectives were marginal tinkering rather than responsive to the level of challenge they perceived.

Pre-recession, he was sufficiently adroit to put a (gentle) squeeze on the oil companies by increasing royalties (up 20 percent) and counter the global warmers with a modest proposal to reduce carbon emissions 14 percent from 2007 levels by 2050—rather into the never-never than the here-and-now. He stiff-armed the Stéphane Dion Green Shift when it was released in Summer 2008—and indeed, the Liberal plan would have distinctly damaged Alberta. Stelmach did not provide high drama, and what stagecraft he demonstrated ultimately did not satisfy the provincial audience.

Nor was Stelmach particularly adroit in negotiating the Great Recession's effects on Alberta. He did some budget cutting, but his essential tactic was to wait it out under the assumption that all bad things come to an end. Alberta was sufficiently buttressed by reserve funds and future prospects that "less was more" so far as political action was concerned.

Consequently, it was hard to tell when he headed into a fourth year in power (Stelmach became premier in December 2006) where he was headed and whether he would know when he got there (or what to do if he so arrived). Perhaps recognizing both his shortcomings and his lack of support, Stelmach announced in January 2011 he would not seek a second term. This prompted a leadership race with Stelmach as a very lame duck, largely over the degree to which fiscally conservative budget practices would be tightened further. Stelmach departed, leaving the impression that he will be regarded by history as a placeholder premier.

Redford Rules and Rolls, but Where Is She Going?

Having beaten back the Wildrose challenge in 2012, Redford has yet to put a defining stamp

on Alberta. With the economy improving as of mid-2013, little in the way of dramatic creativity is necessary. Her major efforts have been devoted to pipeline battles: promoting the Keystone XL Pipeline in Washington and dismissing BC Premier Christy Clark's demands for a cut of profits from any Northern Gateway deliveries.

Alberta Advantage Equals Canada Envy?

The combination of economic boom and political stability has been labeled the "Alberta Advantage"; it is easy to see, however, that the province could easily become the butt of "Canada envy" for those less fiscally endowed. There are Canadians who think that there is a gigantic sucking sound coming from Alberta, pulling not just oil patch "roughnecks" and semi-skilled labor to the province, but skilled professionals as well. Indeed, the Alberta energy boom is now generating competition for professionals from across Canada for whom the traditional struggles of the Atlantic provinces and the new rust-belt unemployment in Ontario are daunting; Alberta oil smells like milk and honey. And while there may have been a degree of reverse flow during the Great Recession, it was temporary in nature.

Moreover, Alberta is making it easier for envy to come to the fore. Oil at $140 per barrel in 2008 began to override the essential modesty characterizing Canadians. There was a palatable irritation in Alberta with the ROC; while its attitude was not quite "why don't you find your own oil," there was a sense that Alberta's political and fiscal attitudes are virtuous, and Alberta deserves its wealth. What it does not deserve (or appreciate) is the requirement to subsidize poor sister provinces through indefinite distribution of its federal taxes. That attitude does not mean that Albertans lack charity or reject the basic concept of equalization payments. When he was premier, Klein specifically endorsed equalization, and his successors have not criticized the theory either. But when decades of employing this mechanism have not moved many of the Atlantic provinces or Quebec off the dole (and Ontario was recently designated a "have not" province), many Albertans believe that throwing good money after bad is fiscally stupid to the point of being immoral. Nor, if they had spent much time thinking about it, would they have been amused by Newfoundland and Labrador efforts to continue to get equalization payments despite growing oil wealth from offshore production. Perhaps Albertans would not repeat former Ontario Premier Mike Harris' infelicitous judgment that the Atlantic provinces are akin to a lottery winner wanting to stay on the dole, with their desire to retain present levels of equalization payments while benefiting from new oil and gas wealth. They would, however, suggest that a child who has been supported through university and now has a good job should forgo further parental allowances.

And the sums involved in the income versus outgo of money from federal taxes over time are indeed enormous: they are assessed by one admittedly prejudiced observer at $243 billion through 2002. Another estimate by the Alberta Finance Department stated that the province paid $14.1 billion more to the federal government in 2010 than it received in services. Albertans recognize that this money is gone forever, and it is money largely derived from irreplaceable natural resources that might otherwise have been directed—at least in part—to developing Alberta's infrastructure and industry. It could have been

further augmented the "rainy day" future fund, and for the more self-interested, directed into their personal pockets for increased individual spending. Or all of the foregoing.

Consequently, Albertans are keenly sensitive to various schemes hatched in the nefarious East to limit their economy and place various restrictions on oil and gas production through "carbon taxes" or "emission controls." The Liberals' 2008 "Green Shift" looked more like "Shaft" or "Shit" than any proposal within the realm of reason. Albertans see most environmental and global warming rhetoric as cant, either by the envious or the greedy. They well (very well) remember the days of the National Energy Program (NEP) from 1980 to 1986 wherein estimates suggest that Alberta lost between $50 and $100 billion through artificial price constraints; the bankruptcy rate in Alberta rose 150 percent. Thus Alberta is hardly amused at disingenuous criticism from Quebec (rich in hydroelectric power but still benefitting from Alberta taxes via equalization payments) about how Alberta should be more "green."

The consequences of its economic success ("too much wealth"), along with the defeat of the federal Conservative Party in June 2004 following the defeat of the western-based Canadian Alliance (CA) in the November 2000 election, stimulated another round of intellectual and political analysis-angst regarding the role of the West and individual provinces in the Canadian federation. The rise of the new Conservative Party of Canada under Stephen Harper and his victory in the 2006 federal election mitigated, but hardly eliminated the bases for Alberta's anxiety. Harper operated for five years on a tightrope balancing constraints of a minority government whose day-to-day survival was reasonably secure but always at risk of miscalculation. The majority Tory victory in May 2011 provides a conservative federal backdrop for Alberta interests, but the existential problem remains. In short, Alberta's political problems are in abeyance rather than in ascendance, but hardly eliminated. And the Tories will not be in power forever.

Indeed, as the Conservatives hold 27 of the 28 federal ridings in Alberta, pulling better than two-thirds of the 2011 vote, opposition parties such as the Liberals and the NDP have no interest in catering to Alberta concerns. The Liberals have been road kill in Alberta ever since implementing the NEP, holding no more than a tiny redoubt of seats in the most liberal area of the province (Edmonton), even when the Chrétien governments owned strong parliamentary majorities. Although the rule of adroit taxation is to pluck the most feathers from the golden goose with the least amount of hissing, should the Liberals ever gain power either individually or in a coalition with the NDP, they would happily reduce Alberta into down pillows and prepare the province for roasting.

Does the West (or Alberta in Particular) Want Out?

The Maritimes want more pogey—always. Quebec wants sovereignty— on a self-defined basis. Prairie provinces want higher farm supports. Having survived the 2010 Winter Olympics, British Columbia wants to keep recovering economically. And Alberta wants...out? The citizens of Ontario and the federal officials in Ottawa must feel like the proprietors of a boarding house filled with fractious roomers. Is this just "Canada as normal?" Or are the plaints generally from the West, but specifically from Alberta, temporarily

less pointed but still meaningful?

The short answer is "no." Alberta and the West do not want to separate from Canada, become independent, or join the United States. They are, however, significantly alienated for reasons both attitudinal and institutional. These complaints have moved beyond the "cloud the size of a man's hand" but still are well short of tornado violence. Nevertheless, they are not trivial and Canadians would be foolish to assume that business as usual will keep the West satisfied. Likewise, assuming that the advent of a Conservative government in Ottawa has alleviated the problem is the equivalent of blithely disregarding an infection because it is covered by a bandage.

First: Some Elections and How Alberta Got to Where It Is

The 2000 and 2004 Federal Elections: Learning from the Past

Although the elections of 2000 and 2004 are now fading into "modern history" rather than contemporary politics, they remain interesting for their long-term effects on Alberta and the West. Essentially, the period demonstrated the revival of the Conservative Party and its shift from a "progressive conservative" Eastern Canada outlook to a "conservative" Western direction. While the current Conservative Party of Canada (CPC) is doubtless a centrist party in Canadian terms, reaching out to all Canadians, with more total representation in Ontario than from the West, its intellectual and historical home now is Alberta, not Ontario or Quebec.

As is often the case for victory, it was rooted in defeat. The November 2000 election and the triumphant return of the Liberals deepened Western irritation from defeats in 1993 and 1997. Beyond Ontario's western border, the Liberals simply were not Canada's "natural governing party"—and that fact was re-emphasized in 2000. Some basic statistics: the Liberals took 97 percent of Ontario's seats but 16 percent of seats in the West; they garnered 51 percent of the Ontario vote but only 25 percent in the West. Moreover, in the run-up to the election, many Westerners began to believe they had a serious chance, if not of ousting the Liberals, at least of significantly reducing their majority and perhaps even forcing them into a minority government.

To that end, the Reform Party devoted the better part of two years reinventing itself: national consultations, a new party name, leadership race and a convention, and a new leader with a new platform. The result was designed to present the best of the West to Ontario and Eastern Canada. Certainly there were those who believed that Canadian Alliance leader Stockwell Day could crack the Liberal stranglehold on Ontario. Day was young, bright, articulate, and bilingual. The image was Young Lochinvar out of the West riding a jet ski, not a stallion. But those nasty old pros in Ottawa didn't just toast him; they cremated him before he even knew that the political heat was above room temperature.

This hurt. So much for the slogan "the West wants in." It particularly hurt in Alberta, not just that their "homie" had cratered, but that the Liberals trashed Alberta in the process with attack ads ripping Alberta Bill 11's modest expansion of private health services, with claims that provincial health services were headed toward two-tier medicine. Nor did it help that Prime Minister Chrétien made it clear that he preferred dealing with Eastern

politicians—as if Albertans had dung between their toes that showed when they fell off the turnip cart on Parliament Hill.

From the Ashes

Demonstrating a combination of remarkable patience and organizational skill, Stephen Harper, the new leader of the Canadian Alliance, orchestrated a union with the Progressive Conservative (PC) Party under Peter MacKay in December 2003. With that success—an objective sought by a series of Reform/CA leaders and long rejected on terms other than their own by a series of Tory leaders—Harper united the right. The effort took the better part of a year. In mid-summer 2003, Harper spoke frankly and privately to one observer to the effect that while he hoped the unification of the Alliance and the Progressive Conservatives would occur, he doubted that it would happen. He predicted that the mandarins of the old PC along with the strictures of its party constitution and the Peter MacKay-David Orchard agreement against seeking unity would stymie unification through the next election.

This union was necessary, if not sufficient, to make the center right in Canadian politics competitive against the center left Liberals. The extended effort at unification and then the official selection of a new leader for the Conservatives lasted until April 2004. This process left little enough time to cobble together something resembling a political platform and to make candidate selections before Prime Minister Martin dropped the writ for his long-anticipated "get a mandate" post-Chrétien election. Political circumstances in early 2004 were curious—in retrospect, almost surreal. Paul Martin, after what seemed an ice age of waiting, had become Liberal Party leader in December 2003 and, simultaneously, the odds-on favorite to win the next election—whenever. So popular was Martin after the dour, increasingly unapproachable and Mafia-like godfather Chrétien, that he was bruited as a savior for the West and not just for Canada generally. Ostensibly knowledgeable observers predicted that Martin could win up to 220 seats in the 308 seat Parliament, break out of the two-seat Edmonton rump and limited representation in British Columbia, and resolve Canadian discontents over the energy restrictions of the Kyoto Treaty. In passing, Martin might also discover a cure for cancer and teach Canadians how to grow sugar cane in Calgary. It was pre-anointed secular sainthood for Martin.

But the sponsorship scandal changed Canadian history. Bursting forth with the release of Auditor General Sheila Fraser's report in February 2004 was the revelation that $100 million of $250 million in advertising contracts to favored Quebec firms was unaccounted for. The report unleashed a storm of criticism against all involved—and "all" were Liberals. Martin thrashed desperately. He unleashed a series of "mad as hell" speeches about the scandal, dispatched prominent venerable Liberal war horses (Canada Post head and former Foreign Minister André Ouellet and Via Rail chief Jean Pelletier) to the knacker, and opened a gaggle of investigations. Still Martin's credibility had taken a brutal blow. His repeated denials that he had known anything about the nature of distribution of the contracts despite being finance minister and the most prominent Quebec MP sounded disingenuous at best—idiotically ignorant at worst.

The election campaign was scheduled for June 28, 2004. Although not absolutely required until the fall 2005, the earlier timing

was viewed as a lesser evil since the multifold investigations into the sponsorship scandal could be put on hold. Nevertheless, the Liberals were distinctly hobbled entering the campaign with the blood still coagulating from the internecine fighting between die-hard Chrétienites and resurgent Martinites over Chrétien's ouster. Moreover, although Martin had pledged greater intraparty democracy and committed not to interfere in selecting candidates, he (or clearly designated subordinates) manipulated nominations in Alberta and British Columbia as well as elsewhere throughout the country. Same old, same old.

Nevertheless, with the best economy in decades; low unemployment, inflation, and lending rates; a balanced budget; a reduced federal deficit; and increased social spending, the election was the Liberals' to lose. And they lost it—well, almost lost it. For the first several weeks of the five-week campaign, Martin appeared almost disoriented. His best moments were out of the country: at the 60th anniversary of D-Day (despite suggesting that Canadian forces had stormed the beaches of Norway) and earlier in a session with U.S. President George W. Bush. Martin was additionally sandbagged by Ontario Liberal Premier Dalton McGuinty's announcement of a health care "premium" (and reduced services) when he had campaigned on a promise not to increase taxes without a referendum. Martin needed that announcement like a drowning man needs an anchor; it left the vital Ontario electorate livid and disinclined to differentiate between local liars and federal liars—both were "Liebrals."

During this period, the Conservatives surged by doing nothing. Harper generated the image of a solid, intelligent, and competent leader. It was hard to characterize him as "scary," considering he was a man who appeared to be comfortable in a barbeque apron entitled "World's Greatest Dad," and he didn't infuriate anyone by zipping about local lakes on a high-decibel Jet Ski scaring innocent fish. Looking as if he could build on Western votes and make serious inroads in a disaffected Ontario (as a resurgent Bloc Québécois chewed away at Liberal strength in *la Belle Province*), Harper's polls momentarily suggested a majority or at least a plurality.

But facing defeat and taking advantage of a puzzlingly timed statement by Alberta Premier Ralph Klein that he would announce change in provincial health policy two days after the election that could violate the Canada Health Act, Martin attacked Klein for favoring two-tier medicine and demanded Harper similarly denounce Klein. With devastating TV ads suggesting that the Conservatives were surrogates for U.S. interests that would turn the Canadian Forces into cannon fodder, end official bilingualism, put women into purdah, and weaponize every citizen, the Conservative bubble popped. Harper might not be personally scary, but he became the front man "suit" for such redneck Neanderthals (read Albertans). As one commentator said, Canadians had a choice between fear and loathing—and chose the Liberals sufficiently to provide a strong minority government. But that did not expand their numbers in Alberta, where only one of their two MPs entered cabinet.

The national results left the Conservatives depressed, the West irritated, and Albertans angry. They believed that they had reinvented themselves, put forward a sophisticated "face," and demonstrated that they were a valid alternative to the corrupt, dissolute,

incompetent "Liebrals". But not only could the Conservatives not defeat the Liberals, the results showed that the Liberals could not even defeat themselves.

Thus in two consecutive elections, Albertans believed they had been "dissed." Many came to the conclusion that the conservative attitudes held by a majority of Albertans would simply never be accepted in Ontario, let alone in Quebec or the Atlantic provinces. It left Albertans with some hard thinking to do. The 2000 and 2004 elections had been doubtlessly democratic, but doubtless depressing. Just as the federal government is barely noticeable in Quebec outside Montreal, the Liberals are an endangered species in Alberta.

In this regard, however, some complaints from Alberta had a petulant, if not puerile tone. In 2000, Stockwell Day wanted Canadians to view Alberta as a model success story, illustrating his ability to transform Canada in similar fashion. Hence, Liberals magnified hangnails into gangrene. That is standard politics; reference, during the 2000 U.S. presidential campaign, how the Democrats sought to transform the prosperous and effectively administered state of Texas into a land whose hapless citizens strangled in pollution while dying in wait for health services. If Texans weren't so arrogantly self-confident (and if their man hadn't won), they might have gotten publicly irritated. Albertans took personally what was only political.

Nevertheless, Ottawa Liberals initially responded to Albertan plaints after the 2000 election with the warmth and sympathy of Darth Vader clones. Then-Intergovernmental Affairs Minister Stéphane Dion launched into a full hissy fit, not just about "separatist blackmail" but against anyone who suggested that Canada's West might effectively replicate Quebec separatists' tactics to advance Western interests. In his didactic schoolmarmish manner (which subsequently was demonstrated on a national level), Dion deigned to instruct Stockwell Day on how to chastise Alliance members who might show interest in separatist tactics. Day huffed defensively, when he might better have suggested that Dion's father, Léon Dion, was a master at devising "knife at the throat" political tactics to advance Quebec's interests.

There was a comparably sulky approach following the June 2004 campaign. Some in Alberta even floated a bitter booklet suggesting that Harper should return to Alberta and run for provincial Conservative leadership. But Liberal tactics at a vital point in the 2004 campaign process were tried and true: screw the West and take the rest. If there is a choice between addressing the desires of Alberta or the needs of Ontario, no politician (other than perhaps an Alberta native) needs a second thought. Still again there were howls of outrage over Liberal tactics, as if they were new and unprecedented, rather than politics as usual. In the United States, the comparable ritual is for the Republicans to attack Democrats for being soft on security; the Democrats reciprocate by contending Republicans want to eliminate Social Security for the elderly while catering to rich fat cats and sponsoring soup kitchens for the poor. A number of maxims come to mind. One recalls the motto attributed to John and Robert Kennedy, "Don't get mad; get even." And even more salutatory, "Fool me once, shame on you; fool me twice, shame on me." Conservatives in Alberta—and national—looked twice fooled.

January 2006: The Conservatives Seize Government, but as a Minority

Historically, the Liberals as the "natural governing party" of Canada have been defeated only when they totally exhaust their political mandate. Such an event can occur during the transition from a defining to a dithering leader or the emergence of a gag-a-goat scandal that also reflects the sense of entitlement associated with extended periods at the public trough.

During the June 2004-December 2005 Liberal minority government, the Tories gnawed steadily at Liberals' and Martin's credibility, seeking mechanisms to topple the government. Martin, who likely would have been an effective prime minister if he had commanded a standard Liberal majority, often appeared fecklessly adrift trying to operate a minority government. The extended juridical review of sponsorship scandal and the repeated questions associated with Liberal activity in Quebec further tarnished the Liberal "brand" in the province, opening unanticipated opportunities for the Harper Conservatives.

Learning from their previous errors, the Conservatives ran a textbook campaign, while the Liberals assumed that they could repeat essentially the same tactics that won in 2004. Thus the Conservatives immediately presented a short, cohesive platform forcing the Liberals to campaign on their issues. The Liberals assumed there would be Conservative errors and infelicities—but there weren't. A holiday campaigning break permitted Harper to pace himself, and he performed effectively in both English and French during the candidate debates.

In the end, Canadians in general and Quebeckers in particular decided that renewing the Liberal mandate for a fifth time would endorse the sponsorship scandal and obvious Liberal leadership fatigue. The Conservative victory swept all 28 seats in Alberta and gained 10 seats in Quebec—but the latter victories posed more of a problem for Alberta than its unanimous support for Harper.

The October 2008 Election: Building—Sorta—on Success

Managing a minority government is a tricky process, and the Conservative margin for error was the slimmest in Canadian history. The Liberals instantly consigned former Prime Minister Martin to their political dustbin, but then struggled to replace him. The result was a political science classic leadership convention in which the initial third choice maneuvered to victory. Happily for the Tories, Stéphane Dion became the equivalent of a man with a "kick me" sign on his posterior starting with the antipathy he prompted among separatist Quebeckers, but complemented by oft-impenetrable English and a "Green Shift" economic and environment plan as his campaign platform that ranged between inexplicable and unacceptable.

Harper was able to campaign blithely on a "never been better" state of the economy, calling an election when the Great Recession was dropping its first snowflakes for the coming blizzard. The Conservatives were able to deride the Green Shift as a "tax on everything," and Harper appeared to have a good chance for a majority government. But they bungled the opportunity. Despite having worked persistently to expand its 10-seat beachhead in Quebec with additional funding and bows to provincial nationalism, e.g., declaring Quebec a "nation" albeit within Canada, the Conservatives still misread

the Quebec psyche. Tough on youth crime proposals and cuts in cultural funding designed to play to ROC (non-Toronto chattering class) sensibilities were negatives for Quebeckers. The Conservatives held their 10 Quebec seats, but the description by one journalist following the 2006 election as promising more in Quebec (*French Kiss*) could now be depicted as *One Night Stand*. The overall result was a strengthened minority (at 143 seats, 11 short of a majority) and the worst Liberal defeat in a generation—a loss of 29 seats to a total of 77. It was a limited victory, but it could have been much greater given the favorable conditions of a strong economy and a weak opponent.

So far as Alberta was concerned, the election was a wash; the Conservatives even lost an Edmonton seat to the NDP due to poor Conservative campaigning more than NDP strength. The Conservative victory deflected the worst of the prospective consequences of a Liberal victory, but its minority nature prevented federal government implementation of greater safeguards for Alberta interests. Moreover, Alberta had a huge bloc of Conservative seats[27] with some of the party's most experienced and capable MPs—but not all could be accommodated due to the need to construct a cabinet that was "national" in appearance. This circumstance generated frustrations of its own and ultimately prompted some of the Tories' most able MPs to retire before the 2011 election.

And Now, Circa 2011, a Tory Majority

Given the repeated failures to seize the "gold ring" of a majority, many observers were skeptical that a Conservative majority would happen. Although prepared for election (a minority government must be ready every day), the Conservatives were not salivating for the opportunity. Indeed, it was forced upon them by the conviction of Michael Ignatieff and the Liberals that they could not do worse than under Dion and, sotto voce, was the siren cry that a Tory plurality could be overturned by a Liberal-NDP coalition—at least one that implicitly would oust Harper. It was a catastrophic decision, resulting in the virtual destruction of the Liberals (worst ever finish in seats and voting percentage and sliding to third place in Parliament). The abrupt rise of the NDP to Official Opposition party status under its then-leader Jack Layton is a phenomenon still being examined. Layton's abrupt death in July 2011 left the party groping for adult supervision with, *inter alia*, 58 new MPs from Quebec stemming from the virtual annihilation of the Bloc Québécois (falling from 43 to four seats).

A lackluster leadership race in early 2012 selected Thomas Mulcair as the new head of the NDP, but despite some success in controlling a disparate caucus, his limited political and parliamentary experience showed. And he has adopted ritualized Alberta-bashing, accusing Alberta of harming Ontario's auto and manufacturing industry and denouncing the Keystone XL Pipeline during a U.S. visit. Although not as dramatic as Al Gore's depiction of the oil sands as an "open sewer," Albertans would be more likely to turn to Justin Trudeau's Liberals than the NDP.

Nevertheless, it has not necessarily proved beneficial for Alberta to epitomize Prime Minister Harper's lifelong ambition and provide blessed stability for the Canadian political scene until the next scheduled election in 2015. The massive bloc of Conservative MPs from Ontario exceeds Alberta's caucus and consequently was accommodated with many of the key cabinet slots. Prior to the election,

a substantial number of the most-experienced Alberta MPs declined, for a variety of personal and professional reasons, to run again—depriving Alberta of stronger voices in caucus and cabinet. Albertans were certainly "present at the creation" of the modern conservative movement, but they are hardly reaping the rewards of two decades of political activism and struggle. While obviously satisfied that "one of their own" in the person of Stephen Harper is now guiding Canadian politics, Alberta certainly senses that the West is hardly providing the tenets and parameters for the national game plan.

The point to gather from this semi-historical recount of yesteryear's pains and current prospects is that the "Alberta *disadvantage*" is inherent and institutional. It is built into the Canadian political system. Starting with the 2006 CPC minority victory and now the current CPC majority government elected in 2011, Albertans may hope that the pressure against them has relaxed, but the fragility of this tranquility must be examined. It remains totally a function of the continuation of a Conservative government in Ottawa. Albertans are not "masters in their own house," and those with long memories recall that the solid Tory majority government under Brian Mulroney was one for which they also had considerable hopes. And, indeed, the elimination of the NEP was a substantial relief (even if it took two years to be implemented). However, at subsequent points, the Mulroney government passed over Alberta and Western interests to cater to the larger Quebec constituencies. Indeed, they simply took the West for granted in the effort to devise mechanisms to bring Quebec into full acceptance of the Canadian constitution.

Thus, while Alberta and others in the West recognized the limits of what can be achieved in a minority government, they also know that many of the basic conservative objectives have not been addressed even with a majority: a "Triple-E" (equal, elected, effective) Senate remains in abeyance as no other provinces have moved toward "electing" senators that Harper would then appoint; the long gun registry was not implemented, and not abolished until April 2012 (and the requirement to destroy records is still being appealed by Quebec); and any protections against environmental restrictions on energy production are no more than words. While some of these objectives ultimately were likely to be realized by the Conservative majority government, notably the definitive elimination of the long gun registry, prospects for other objectives are tenuous at best.

Challenge and Response: Firewalls Versus a Strengthened Role in Canada—A Review of the Past as a Message for the Future

The Gang of Six Builds a Wall

Politics is important; economics is vital. A January 2001 "open letter" to Premier Ralph Klein by six conservative Alberta political activists (the "Sixers") offered a vigorous intellectual challenge to the core of the current federal structure. Even at the time, individually and corporately, the authors, including Thomas Flanagan, Stephen Harper, and Ted Morton, were regarded as sophisticated observers of political reality in Alberta and Canada. Their study was driven in part by the frustrations associated with the 2000 Canadian Alliance electoral failure, but remains intellectually valid regardless of the impetus or subsequent political developments.

Essentially, they examined the economic gains and losses for Alberta from its relationship with the rest of Canada and proposed mechanisms to reduce the losses. Canada is a costly commitment for Alberta; the provincial Treasury figures concluded that the outflow per capita in federal payments for 1999 was $2,651 higher than the income. Future projections ran much higher and some estimated the outflow was as high as a $12 billion in excess of return for 2004. Their proposals, *inter alia*, to create a provincial pension plan comparable to Quebec's, collect provincial personal income tax, pursue a provincial health care regime, and substitute a provincial police force for the RCMP appeared fully within the realm of what is legally permissible under the Canadian constitution—and still do.

The drafters also argued, less convincingly, that these changes may well be more efficient than current regimes. However, what they created, along with the infelicitous description of building a "firewall" around Alberta, was the appearance that the authors were interested less in greater bureaucratic efficiencies than in reducing Ottawa's influence. It was something like "independence lite" in attitude. Nevertheless, greater local control is always satisfying—for locals—regardless of where it might lead and sometimes regardless of what it costs. *À la Québec.*

Of course, Alberta independence is a hardy perennial in discussions with a certain percentage of the population. It is akin to (but less virulent than) the Quebec predilection for yearning for independence at no cost to Quebeckers. Within six months of the release of the "firewall" paper, observers noted that this iteration of the autonomy push had muted. Critics insisted that the ideas had no resonance with the general population; no more than 10 to 15 percent of the population (in their view) held such attitudes, and those were the less educated element or a handful of rich ranchers and oil barons who thought to expand the relative size of their "frogs" by reducing the size of the pond.

Alberta government experts stated that many of the proposals had been studied and set aside for fiscal reasons. For example, the proposal to create an Alberta pension plan founders on the "portability" issue; Quebeckers infrequently relocate outside their province, but Alberta residents can be expected to do so. A provincial police force supplanting the RCMP would apply only to rural areas since Calgary and Edmonton already had municipal police. Moreover, rural areas are sentimentally attached to their "Mounties" as part of Alberta's historical tradition. Nonsense, replied a "Sixer." Portability is a technical point that can be resolved; certainly some Quebeckers relocate and their pensions are adequately managed. Likewise, rural love for the RCMP is an urban conceit. Polls showed considerable rural dissatisfaction with their policing. Still, as there was more than a decade until the next contract renewal for the RCMP (2011), the question was moot for the near term—but may ultimately be more relevant as time passes, although in August 2011, it was renewed for 20 years. Separately, the RCMP has its own issues as explored in Chapter 5.

During his 2001 electoral campaign, Premier Klein appeared to offer some vague sympathy to these proposals without endorsing them. "Sixers" took some comfort from Klein's absence of direct criticism, but an impartial observer would conclude that with his massive legislative majority and personal

popularity, Klein could have implemented such proposals had he desired. Consequently, Klein's deliberate avoidance of any positive action was implicitly a rejection. Silence could not be spun into consent. Ed Stelmach, as Klein's successor, was not prompted even to examine "firewallism" for Alberta, let alone embrace it. Nor can such activism be expected from Premier Redford—the sole repository for incipient provincial nationalism lies within the Wildrose Party, which was more than a bit chastened by its 2012 defeat.

The Provincial Riposte: Greater Role in the Canadian Confederation

Nevertheless, to respond to the "firewall" as well as a further series of nagging problems viewed as illustrating Ottawa's impositions on Alberta (e.g., adherence to the Kyoto Treaty, the gun registry, the Canadian Wheat Board, and appointment of federal senators), Premier Klein announced in November 2003 the creation of a committee of elected legislators to address *Strengthening Alberta's Role in Confederation*. The committee, led by Edmonton Ian McClelland, produced a 69-page report released in August 2004; it reflected 13 forums held throughout the province that prompted more than 700 citizen submissions, including letters, e-mails, and phone calls. To be sure, this level of response does not suggest that Alberta's future relationship with the ROC was keeping a significant percentage of the province's 3.5 million population awake at night (or attentive during the day).

In the report's 26 recommendations, the "Strengthening Alberta" committee largely rejected the "firewall" proposals, primarily for financial rationales. Thus collecting the federal income tax would simply add a layer of provincial expense and not reduce the amount of federal taxes that Alberta would pay to Ottawa. Nor did it see economic advantages in developing a provincial retirement plan, arguing that the national plan that served Alberta's interests well. Replacing the RCMP with a provincial police force remained in play at that point. After all, both Ontario and Quebec have provincial police forces demonstrating it can be done (and indeed was the norm in Alberta some years ago). Again, the decision appeared financially driven, with proposals to review policing alternatives prior to the mandated 2007 cost review (which ultimately resulted in extending the RCMP's contract). Otherwise, the committee moved around the margins of suggesting, proposing, and urging views that—unfortunately for Alberta's interests—seemed unlikely to stimulate little more than a ho-hum from Ottawa. Nor was there any federal response, and the report's conclusions and suggestions have become another doorstop dimensioned dust-gatherer.

At this juncture, Ottawa stands against experimentation in health care—at least for Alberta. As long as they were in power, the Liberals catered to the interests of central Canada and Quebec urbanites with its long-gun registry. Having sunk $2 billion into the system, they were more likely to adopt the U.S. Constitution's Second Amendment than admit the gun registry was a loser. The Conservative decision to suspend penalties for noncompliance and finally eliminate the registry completely did not end the overhang of compulsory compliance should the Liberals (or NDP) form the government; for their part, the Liberals are more likely to ban private gun ownership entirely than significantly relax regulatory control. Moreover, the residue of the registry's recordkeeping, etc., still faces court challenges in mid-2013 (particularly by Quebec, which has refused to comply)

against the prospect that it will be destroyed. Gun elimination proponents hope that the registry records will be mothballed (or surreptitiously retained and concealed) when the registry is formally abolished rather than definitively destroyed—awaiting a Liberal (or NDP) government. Nor was the Kyoto Treaty officially disavowed (impossible with a Liberal leader whose dog was named "Kyoto"), not even by Tories whose Kyoto-skepticism was tempered by political pragmatism until their majority made it possible to opt out of continued Kyoto Treaty adherence. Despite legal attack by Kyoto proponents claiming the government could not take such action without parliamentary consent, the courts beat down the challenge in July 2012. The various climate change alternative approaches touted following the G-8 Summits in June 2008 and December 2011 are not-in-my-lifetime proposals. Canada's decision to withdraw was adroitly timed to avoid fiscal costs for its noncompliance with technical objectives in the Kyoto protocol.

The effectiveness of another report recommendation, that of opening a provincial office in Ottawa, was instantly open to question. After all, there were 28 federal MPs who, presumably, had some personal interest in advancing Alberta's institutional interests. If they cannot be effective advocates of Alberta concerns, what was a branch office in Ottawa going to accomplish? Even less could be projected with a Conservative prime minister in Ottawa. And so in the end, that proposal, like the rest of the "Strengthening Alberta" report, went by the boards. Additionally, the suggestion that Ottawa should work to increase the numbers of Westerners in the civil service smacked of a plea for a quota system and implies that Alberta residents are not otherwise competitive. And the recommendation to continue holding elections for nominees to the federal Senate is a procedure that seems designed to institutionalize frustration even after four such senators were appointed by Prime Minister Harper.

But it is the continued assault by environmentalists against the "dirty oil" from the "tar sands" that mainly continues to disconcert Albertans and serves as a thorn in their collective side. They are well aware that their wealth depends on energy production and export. The intensity of environmentalist activity focused against the Keystone XL and Northern Gateway Pipelines to move Alberta oil sands crude to U.S. refineries and West Coast ports appears to have caught Alberta by surprise. Alberta now must contemplate similar hysteria against the Energy East project to the Atlantic Coast. Alberta was as gob-smacked as were Hydro-Québec proponents of the massive "Great Whale" hydroelectric project in the 1990s when faced with implacable and adroit PR hostility that ultimately harpooned the project.

Such conveyers of "ethical oil" were so certifiably a good thing in Alberta eyes (a "no brainer" for the prime minister) that opponents appear (to them) beyond wrong-headed and more akin to delusional psychotics than seriously motivated substantive critics. Although the battles to build the pipeline(s) appear winnable, the political costs will be enormous. Having to fight them was and continues to be disconcerting and left Albertans concerned whether their economy was at risk from the vagaries of U.S. electoral politics combined with U.S. environmental groups funding Northern Gateway opposition.

Tale of Two Albertans: Stockwell Day and Stephen Harper

At mid-2013, there were still lessons to be learned from juxtaposing two Albertans: Prime Minister and leader of the Conservative Party of Canada Stephen Harper with former Canadian Alliance leader Stockwell Day. It is not just success versus failure; while the limits of Day's failure are now obvious, the outer limits of Harper's success are still to be determined.

Who Is Day?

Stockwell Day was a come-out-of-nowhere man who accumulated an eclectic selection of life experiences, with better French than most anglophones, but—perhaps significantly—no university degree.

Day almost single-handedly derailed Preston Manning's carefully orchestrated effort to lead the Canadian conservative movement from the Reform Party to a more inclusive Canadian Alliance. Day's defeat of Manning was almost the equivalent of throwing the father out of the home that he built. That July 2000 victory was probably Day's political high point.

In a burst of bravado, Day urged Prime Minister Chrétien to call an election. One suspects that Chrétien could hardly believe his good fortune: a neophyte had devised his own trap and leaped into it. Day's demonstrated Alberta expertise did not translate to the national scene; his campaign was plagued with unforced faults, and his fundamentalist Christianity led to what is still the most memorable putdown in recent Canadian political history: Warren Kinsella's sneer that Day considered the *Flintstones* cartoon "a documentary."

Although the CA improved both its MP numbers and voting percentage over 1997, the campaign was regarded internally as mostly a disaster. By mid-2001, Day's caucus was in full revolt, divided between new and old MPs.

The problem with replacing Day was "with whom?" Not Preston Manning who, behind his schoolmaster impression, was a tough leader, squelching revolts ruthlessly. A year away from leadership had not made him more flexible, more acceptable to Ontario voters—or improved his French.

Finally the search focused on Stephen Harper, a former Reform MP then heading the National Citizens Coalition. After protracted effort, Harper first achieved leadership of the CA in 2002, then united with the Progressive Conservatives in December 2003, and finally led the rebranded "Conservative Party of Canada," the CPC, or "Conservatives," in April 2004.

Who is Harper?

We know Prime Minister Stephen Harper well; however, upon becoming CPC leader, much of the "prime minister persona" was still to emerge. Harper is all that he has been depicted: intelligent, articulate, principled, moral, and the epitome of family values. Indeed, he is what democratic societies want for their political leaders. And, bluntly, both U.S. Republicans and Democrats could benefit being led by individuals with such qualities.

Harper is also a "small c" conservative whose views are sometimes outside current Canadian thinking. Prior to his minority victory in 2006, some observers suggested he lacked "fire in the belly." As a man with a "life,"

including small children, one might conclude he honestly, albeit temporarily, pondered re-entering the political arena in 2003 and resuming the struggle in 2004, when federal success postulated years of labor, often far from family.

Harper's life is more traditional than Stockwell Day's. Ontario born but university educated in Alberta, Harper had serious academic credentials and respectably conversant French. Part of Manning's early Reform Party brain trust, Harper slowly separated from Manning politically. Whereas Manning was a populist with a conservative bias, Harper is more a traditional Canadian conservative seeking reduced federal government, enhanced national defense, strengthened provincial powers, lower taxes, strong private enterprise, and emphasis on personal responsibility rather than social welfare.

Harper is not "scary," but it took two elections to convince the electorate that the Liberals' publicity was a canard. There is no indication Harper is driven by acquisition; money is not a major motivator. And in circumstances where opportunities for greed are legendary, he looks as if he will keep his hands in his pockets and his feet out of the trough.

Essentially, Harper is both an intellectual (rare in politics) and an introvert (even rarer). Harper does not slap backs—and it would be a rare individual who would knowingly slap his. Harper is far from humorless, but his is a wry, often self-deprecating style ("I became an economist because I didn't have the charisma to be an accountant"). Harper has a gravitas that protects him against sneers equivalent to being called "Stockboy Day," but lacks the telegenic charm marking most successful politicians in twenty-first century democracies.

Nevertheless, if Harper were a fundamentalist Christian, he could offer sophisticated intellectual critique of evolution theory inconsistencies. He would never be caught in literal Biblical interpretation that made Day a figure of ridicule.

Thus in his first national political campaign in 2004, Harper outperformed expectations. Conservatives faltered not because of Harper's errors, but gaffes by other Conservative candidates and staff. The resulting 99 Conservative MPs were both success and disappointment. Uniting the right brought neither the number of votes nor the electoral percentage projected from a mechanistic addition of 2000 Tory and CA totals.

In opposition and during the 2005-06 campaign, Harper "grew" effectively. He benefited from national fatigue with the "Fiberals/Liebrals," the gift-that-keeps-on-giving Adscam scandal, and perceptions Prime Minister Martin was far less the "promised land" leader than someone wandering aimlessly in undefined political wilderness. Now less scary, showing significant French capability Quebeckers found attractive and adopting a facial rictus that passed as a smile, Harper secured a workable minority government.

During his five year minority (ending with a May 2011 majority), Harper governed effectively. He kept very tight "message" control—a stance that persistently irritates the media that thrives on high-level leaking, confidential information, and intraparty infighting. Harper "doesn't give a damn" about media hostility; he appears convinced that Conservatives will never get fair treatment from the media and would rather be the proverbial hung goat than the pitiful shorn and butchered sheep.

Substantively, Harper managed a limited agenda reasonably well. He persistently outmaneuvered the frequently hapless Liberal leader, Stéphane Dion, and adroitly co-opted Liberals (fearful of an early election) to support policy objectives such as the extended military presence in Afghanistan. Following re-election in 2008, Harper evaded a putative "coalition" designed by Liberal, NDP, and Bloc interests that would have ousted his newly elected government. He adroitly induced the governor general, the Crown's highest representative in Canada, to prorogue (suspend) Parliament while he rallied public and political support, convincing the electorate that legitimate parliamentary tactics would equate to a coup for Canadians. He out-pointed Liberal leader Michael Ignatieff who quickly stimulated buyer's regret rather than the party activists' enthusiasm.

Subsequently, Harper guided Canada through the initial years of the Great Recession better than most countries' leaders. Canadians became more comfortable with him as he presided over the 2010 Vancouver Olympics and the G8 and G20 ministerial summits. Both were enormously expensive, but unmarred by terrorism.

Consequently, facing elections in May 2011, Canadians decided Harper had no "hidden agenda." With his implicit "it's the economy, stupid" campaign theme, Harper ran a tightly scripted, zero defects, "boy in a bubble" campaign, letting others make the errors. Harper was deservedly victorious, with masterly technical tactics as well as substantive advantages. The result is a stable Canadian majority government after seven years of day-to-day minority government turmoil.

But Harper is not an "Alberta First" prime minister. The minimalistic result of "no harm done" during the Harper minority government was not Alberta's objective. Its hopes for his majority are problematic. Alberta can expect some basics: formal elimination of the long gun registry, tough-on-crime measures, skepticism on environmental action harming Alberta's oil resources. Harper's ultimate objective is to implant the Conservatives as the new "natural governing party" and, while Alberta's interests are clear, they are not defining.

So What Have We Learned About Day and Harper?

What can we say retrospectively (and prospectively) about Stockwell Day and Stephen Harper?

— *Day was never as good as even his original critics believed but, Harper was better.* That is, Day was never as prominent in Alberta as implied. He would not have succeeded Klein had the premier fallen under a bus during a binge. There is some sense he was saved by a provincial caucus system that concealed his errors from public exposure. Retrospectively, he was a "bridge too far" as a CA leader whose national inexperience proved fatal.

Subsequently, Day showed more personal humility than might have been expected. Despite crushing election defeat and ouster from leadership, he continued as an MP and a sufficiently loyal Harper supporter to be trusted with important ministries, roles in which he performed credibly. His decision not to stand for re-election in 2011 cost Alberta an articulate, experienced interlocutor in government decision-making.

In contrast, Harper rose above suggestions that he was a humorless, inflexible, dogmatic ideologue. He demonstrated "human touches," for example, playing the piano and singing a Beatles song at a 2009 National Arts charitable event. Harper will never be a warm, fuzzy schmoozer, but calm competence is a respectable image for Canadian voters, especially in parlous economic times.

— *Harper has survived his worst mistake(s). Harper's early circumstances reflected m*ore good luck than good management, as media focused on Chrétien-era scandals and Martin's efforts to run Canada. Harper also benefited during his first mandate from a unified, disciplined caucus and "best of times" economics. Conservatives recognized Harper was (and remains) their last best chance, first for near-term and now for extended political relevance. In government, caucus discipline held throughout his second mandate; Conservatives appreciated that securing a majority required his leadership (and continued good luck).

Moreover, Harper has remained lucky. In 2009 the Opposition created a coalition that could have ousted Harper barely two months after the election; instead, Harper persuaded the governor general to prorogue Parliament. Likewise, through adroit parliamentary maneuvers and popular indifference, he skated past doggy issues, e.g., official knowledge of mistreatment of detainees transferred to Afghan authority. During the 2011 election, the Liberals and the New Democrats inveighed against Tory budgets for "jets and jails," but their criticism never gained traction.

An Interim Conclusion

The Stockwell Day saga perfectly illustrates the "Peter Principle." Day exceeded his competence as party leader; however, descending several levels, as foreign affairs critic, he shamed the Liberals into designating a prominent group as a terrorist organization. As Public Safety minister, he managed highly media-politicized internal security challenges such as the "thickening" of the U.S.-Canadian border and the Omar Khadr Guantánamo imprisonment, without incident. He reminds an observer of Joe Clark in his post-prime minister incarnation as a loyal foreign affairs minister for previously bitter rival Brian Mulroney.

Harper continues to grow as party leader and prime minister. As a minority government prime minister, he more than held his own. He initially had many positives supporting him, including the best economy in a generation, social and provincial tranquility (no near-term Quebec sovereignist action), and an Opposition leader perceived as weak. Much good fortune continued in his second mandate; the Great Recession was a hammer blow to the economy, but not of sledgehammer dimensions that battered U.S. and most Western democracies. The government avoided fiscal scandal, orchestrated parameters for honorable withdrawal from combat in Afghanistan, and improved relations with the United States. Having another weak Liberal leader in Opposition helped.

In his opening months as majority prime minister, Harper delivered what he promised throughout his political life: a tough-on-crime package, elimination of the "long gun" registry, federal fiscal support for political parties, and another run at Senate reform. It would be "steady as you go" economics, a balanced budget expected by the 2015 election, with the realization that Canada's fortuitous escape from the worst of 2008's Great Recession may not be duplicated should "double dip" financial crises of global magnitude hit the United States and the EU.

Following their 2011 catastrophe, the Liberals can no longer credibly argue they are Canada's "natural governing party"—particularly if their choice of Justin Trudeau as leader provides another turkey for Tory election celebration. Nevertheless, 60 percent of Canadians support non-Tory alternatives. In recent visits to the polls, the electorate seemed more convinced that Liberals needed more "penalty box" minutes than they were delighted with Tory governance. The 2011 majority victory represents hard-earned respect of the electorate. There is no judgment yet on the longer term meaning of the 2011 election—only questions. Is there a Liberal in Canada's future? Has the NDP had its career year election? Has annihilation of the Bloc Québécois put paid to separatists as a force in Ottawa? Will the Conservatives encounter voter fatigue in 2015 after holding power for nine years?

In the end, Harper may fall short. He faces new challenges based on Senate malfeasance and restive caucus members pressing social conservative agendas. His key long-term political objective is to eliminate the Liberals as a viable party and transform Canadian politics into a "left" versus "right" dichotomy. Conceivably, even without Jack Layton's charismatic leadership, the NDP could become the "left" alternative either through combination or co-option with the Liberals or further political evolution. Or the Liberals, in mid-2013 enjoying a next generation "Trudeau

mania" with "Just-in-time" Justin, could rain on Harper's carefully orchestrated 2015 parade.

Harper now confronts both the "be careful of what you ask for as you may get it" reality and the rare opportunity to become one of Canada's historic prime ministers.

The Other West: British Columbia

At times the Canadian province located farthest west appears to be "California North"—a land of enormous wealth and potential with a heavy sprinkling of "fruits and nuts," in keeping with the snide description of California. British Columbia leads Canada in marijuana production and its per capita consumption. Asian immigration to Vancouver and its environs stretch Canadian multiculturalism. The "French fact" lies so lightly on the land that it might as well be nonexistent; if you heard someone speaking French, it would more likely be a French tourist than a Quebecker. The effort to make the Olympic 2010 Winter Games visually bilingual was an affectation—and done so poorly for the opening ceremonies that it generated a mini-scandal, requiring politically correct somersaulting to place French more prominently in the closing ceremonies.

One might characterize British Columbia as the province of the future—and then cynically suggest that it always will be. Indeed, like California, British Columbia is easy to caricaturize. Until the election of the Gordon Campbell Liberals in 2001, the province seemed to revel in its excesses and imply that for all of its wealth and potential, it was in a self-defeating downward spiral that scorned its natural resource industries, prevented further exploitation of mineral resources, and fibrillated over the possibility of offshore oil drilling while retaining in place sufficient anti-business and pro-labor union laws and regulations to discourage industrial investment and limit tourism.

Prior to the current "Liberal" governments of Gordon Campbell and Christy Clark administration, political instability seemed to be British Columbia's hallmark. With seven premiers in the 10 years leading to 2001, the province had a serious problem with political continuity and a yo-yo effect in the brand of politics adopted. Political scandal unfortunately drove several of the group from office (Bill Vander Zalm, Mike Harcourt, and Glen Clark) and badly scarred Campbell's government. British Columbia has not yet elected a movie actor as premier, but the movie industry continues to thrive despite having "400 rainy days per year" (as once uttered by a character in the classic television science fiction suspense series "X-Files").

Setting the Stage Politically—Some Background

The NDP was reelected in June 1996 on the strength of new leadership (Glen Clark) and a set of promises (balanced budgets) that almost instantly were revealed as lies; as such, it was the proverbial "dead man walking" for the final three years of its mandate. Forced to resign after a variety of criminal charges relating to corrupt practices (which were ultimately dismissed after much controversy), Clark eventually was replaced by Ujjal Dosanjh, who offered various clean government actions and cabinet shuffles, combined with personal integrity. However, by then it was too late. In May 2001, the NDP took a historic beating, losing all but two

of the 79 seats in the provincial assembly. At points during the campaign, it appeared possible that the Liberals would win every seat, but two ridings (that according to one observer would not elect just a "yellow dog" but a "dead dog" if it had an NDP label) supported their incumbents.

Dosanjh also lost his seat and immediately resigned as NDP leader, ultimately to surface rebranded as a federal Liberal, winning a seat in the 2004 federal election and subsequent appointment as Health Minister. He continued in noisy opposition within the federal parliament after the Tory 2006 and 2008 victories (where he won his riding by 22 votes) before being swept aside in the Tory 2011 landslide.

During the 2001 campaign, Gordon Campbell promised a massive compendium of commitments and said that he expected to be held accountable for them. The most dramatic of his initial actions was a 25 percent reduction in the provincial income tax—a move designed to stimulate the economy. He implemented a comprehensive government shakeup and provided his ministers with detailed letters of instruction, a primary objective being cost reductions essentially everywhere except in education and health budgets. Nor did he miss scoring on some easy popular targets such as eliminating photo radar-enforced highway speed limits.

Initial reactions were positive, but quickly soured as the continued effects of recession meant more budget deficits. Spending cuts were more effective in stimulating labor opposition than balancing the budget. There was still another round of criminal charges over corruption and scandal within the ruling party. There was also a DUI conviction following Campbell's arrest during a Christmas holiday in Hawaii in January 2003, which featured a memorable "mug shot" of the dazed premier. All such, combined with political infighting, took its toll. The problems of managing a massive majority at times appeared to be as daunting as being in opposition.

Although Campbell's ministers appeared to be intelligent and motivated, at the three-year mark in his mandate, many still lacked command of their portfolios. With the expectation of victory for at least the three years running up to the 2001 election, Campbell had the opportunity to recruit an "A Team," and he appeared to have done so. But an initial burst of effort by the Liberals seemed to bog down almost before it started.

A Second Victory

Nevertheless, in the "two-term" tradition of most modern governance, Campbell was accorded a second, albeit substantially reduced, mandate, in 2005, falling from 77 to 46 seats. Having surrendered the parliamentary right to call an election at will, BC elections were then "set" on a four-year cycle. The Campbell government did make progress during the mandate: the provincial finances moved back into surplus, employment was up, and some personal taxes were reduced.

Good for a Three-peat

Managing to evade the worst consequences of the Great Recession, the Liberals won a third mandate in May 2009. The Liberals also gained seats (to 49) as a consequence of an overall expansion of the provincial assembly. The opposition NDP also gained, but essentially the popular vote splits remained the same. BCers were not ready to return the

NDP to power, and unwilling even to give the Greens representation.

Post-election Campbell, however, eviscerated himself by witlessly adopting a harmonized sales tax (HST) for the province, combining the existing provincial sales tax (PST) and the national goods and services tax (GST). The problem for Campbell and the Liberals was that he had opposed such an HST during the 2009 election. The tax, beloved by economists, was loathed by the population who were not amused by tax increases on many items previously excluded in the PST but now taxed in the HST. Popular fury drove the Liberal's polls to never-before-seen depths and prompted referendum and recall efforts against the HST and key Liberal members of the provincial assembly. With his back against the wall, Campbell was able to read the inscribed writing; he resigned in November 2010 and was replaced by Christy Clark, who became premier in March 2011 after winning the Liberal leadership the previous month. Clark had formerly been prominent in the Liberal government, rising to deputy premier, but left in 2004, ostensibly to spend more time as a single mother with her young child. The seven-year absence from internecine politics seems to have sanitized her for a "clean" return to Liberal leadership.

To add insult to injury for the departed Campbell, the BC electorate "recalled" the HST in an August 2011 referendum. It takes time to unscramble an egg; however, Clark announced that the former PST would be reinstituted by March 2013. At that juncture, all Clark could do was hope that BC residents had short memories and considerable forgiveness. Although in early 2012 polls suggested the Liberals had exceeded their shelf life, an effective Clark campaign and a snatch-defeat-from-jaws-of-victory by the NDP resulted in a fourth mandate for the Liberals in May 2013.

Just Who Are the Liberals?

To begin, BC Liberals are not to be confused with federal Liberals, although from time to time they pretended to be such to secure federal Liberal government support for particularistic interests. One such time was when they desired Ottawa's support for their winning bid for the 2010 Winter Olympics.

Essentially, however, until the 2013 election, BC Liberals were all who opposed the NDP, from the center to the right.

To be sure, there are a few "real" Liberals, remnants of those who rose to Official Opposition status in 1991 with the collapse of the Social Credit party and the NDP victory. However, those Liberals and their stormy petrel leader Gordon Wilson were quickly submerged by a wide variety of conservatives who were looking for a respectable vehicle with which to oppose the NDP. Many ostensible Liberals are Tory supporters on the federal level, and Campbell kept a careful distance from Ottawa-brand Liberals (while insisting that his candidates and prominent party members not campaign in the federal elections). Likewise, the provincial Liberals worked hard to avoid being involved in the 2004, 2005-06, 2008, and 2011 federal elections, insisting that its members play in federal or provincial politics, but not both.

In keeping with this image, Campbell was eclectic in managing relations with Ottawa: he was a provincial politician rather than a federal player. Following Campbell's 2001 victory, Prime Minister Chrétien sought to "make nice" with a premier who was not a militant socialist.

Although Ottawa certainly recognized the conservative hue of the provincial Liberals, Chrétien dangled the prospects of federal support as a quietus for provincial criticism of Ottawa. For his part, Campbell realized that British Columbia had more than enough problems and, following a quick trip to Ottawa immediately after election when he met with the federal Liberal caucus, he stuck to his provincial knitting.

To a degree, the federal Liberals strengthened their position in British Columbia prior to and during the 2004 election; they again inched up in 2006, while the Tories lost several seats. Almost immediately, however, a key Liberal, David Emerson, defected to the Tories to become minister for international trade.

During the 2004 federal campaign, in contrast with their criticism of Alberta, the Liberals didn't demonize British Columbia or Campbell (after all, regardless of how marginal a Liberal Campbell might be, he was still a Liberal). They were rewarded with an increased contingent of MPs, growing from five to eight, including the aforementioned Dosanjh. Moreover, the temporary unpopularity of Campbell actually may have helped the federal Liberals (in contrast to the drag effected by the Ontario and Quebec-ruling Liberals) since Campbell was regarded as more a Conservative than a Liberal.

Additionally, the Liberal delegation from British Columbia was clearly stronger. Five of the eight Liberal MPs became cabinet members and the weakly performing, septuagenarian Sophia Leung stepped aside for a stronger candidate, avoiding a nomination fight. Also, the flak-catching lightening rod, David Anderson, was dropped from cabinet. The "star" candidates, Dosanjh and Industry Minister David Emerson, were prominent advocates for British Columbia and were powerful members of a Martin government, whose subsequent problems were not attributable to BC politicians. Moreover, NDP gadfly Svend Robinson entangled himself in shoplifting a $64,000 ring, ostensibly to present to his companion; Robinson avoided serious legal penalty, but soon after permanently departed politics—and that, too, was clearly a benefit for the Liberals and indirectly for British Columbia (and Canada). Nevertheless, the province has hardly shed its Conservative label. Seventeen of 36 MPs were elected as Conservatives in 2006 and 22 in 2008 (when the Liberals collapsed to five seats). The Tories lost a seat in the 2011 election while the Liberals fell further to two seats, illustrating that while urbanites and multicultural immigrants may be voting Liberal or NDP, the heartland of the province is not.

Ottawa backed British Columbia's efforts to reverse U.S. duties on softwood lumber and promised assistance for the 2010 Winter Olympics, which flailed in the throes of event preparation. Ottawa's support has continued under the Harper government and British Columbia managed to pull out an international success for the Olympics despite a dearth of snow during opening ceremonies and key events.

Assessment of Gordon Campbell: Low-Key Leadership

Gordon Campbell was not in the BC tradition of flamboyant leadership. After decades of high-decibel, high-profile leaders such as W.A.C. "Wacky" Bennett and Bill Vander Zalm, let alone a cutting edge socialist such as Glen Clark, Campbell in comparison was almost a man in a gray flannel suit. As mayor of Vancouver, he developed a reputation of being more a man of business interests rather than a man of the people.

Campbell's defeat in 1996, when the Liberals won a plurality of the popular vote, infuriated many, who believed that he had led a lackluster campaign.

Nevertheless, Campbell persisted. He improved his political parliamentary skills, managed the disparate elements of his party adroitly, and succeeded in publicizing a more sympathetic life story. If still not a warm and fuzzy figure, when elected he was no longer viewed as robotically aloof or artificially populist. On the other hand, with seven premiers in 10 years, maybe dull competence was regarded as a virtue—even in British Columbia. Still, his victory was probably only a reflection of the virtually total animosity shown toward NDP leadership in the late 1990s.

Even at his zenith, some observers remained skeptical. Campbell's survival as the Liberal leader indicated the Liberals' and New Democrats' weaknesses rather than Campbell's strength. Indeed, when Campbell ran into his disastrous drunk driving charge in January 2003, he survived partially because there was no alternative leader "waiting in the wings". Profuse apologies, alcohol abuse programs, and many mea culpas later, BCers remained puzzled that a man whose father's alcoholism and suicide had profoundly scared the Campbell family could have abused alcohol himself. Nevertheless, while Campbell survived politically, he cannot be said to ever have fully recovered. The image of the straight-laced Campbell with a sickly smile in a police mug shot horrified rather than humanized.

Politically, Campbell's second term appeared to reflect the old Ontario Tory maxim that "bland works." Perhaps the most dramatic element of the Campbell government was the extensive campaign to replace the traditional "first past the post" voting system with a convoluted "single transferable vote" that would lead to a proportional distribution of seats according to the percentage of votes a party won in the balloting. The referendum narrowly failed, there was no repeat in 2009, and no further effort to revive it for the 2013 election. It appears to be a bad idea whose time has passed.

During his third mandate, which ended with his resignation in November 2010, Campbell endured rather than excited. His fatal attraction to the HST, which he had scorned during the 2009 election, infuriated the BC electorate.

Despite the Clark for Campbell switch and the subsequent Clark against-all-odds victory, the Liberals do not resemble an Alberta Tory-style dynasty. Still, the Liberals skated past apparent vulnerability replete with "it's time for a change" campaign rhetoric at their 12-year mark of governance in 2013. Four more years will make for a noteworthy run in government.

The NDP Looked Dead but the Zombie Lived

Retrospectively, 1996 is one of those rare instances when it would have been better for a party to have lost rather than won an election. As the NDP retained office without a popular vote plurality, benefiting from Liberal versus Reform vote splits in key ridings, it had no margin for error. In contrast, had they won, the Liberals would have had to struggle through the "Asian flu" recession and a U.S. economic downturn with a largely inexperienced group of parliamentarians. Their mandate would have been narrow, and the NDP accorded extensive ground to criticize. Moreover, the NDP would have avoided catastrophes such as the "fast ferry" fiasco and confrontations with the federal Liberals

that cost them funding for a Vancouver convention center and a profitable lease for the Nanoose torpedo testing facility. And it is far less likely that Glen Clark would have become embroiled in the shady conflict of interest charges that forced his resignation. That is not to say that the NDP would have won the 2001 election, but it might at least have been in position to serve as a vigorous opposition alternative, instead of being reduced to two seats.

After the 2001 election, the NDP appeared to be virtually the political equivalent of Carthage after the Punic Wars with Rome: army annihilated, population enslaved, fields sowed with salt. The NDP was not just defeated, it was disgraced; not decimated, annihilated. Reduced to a caucus of two and lacking parliamentary status as "Official Opposition," the NDP received a certain amount of funding and the right to question the government, but its position was very humble. In equivalent circumstances, the Saskatchewan Tories renamed themselves the Saskatchewan Party. For a period, "NDP" was the party "that dared not speak its name" in British Columbia—or at least not without the expectation of derision.

Moreover, the NDP's two parliamentarians, Joy MacPhail and Jenny Kwan, were hardly bosom buddies politically or personally. Indeed, MacPhail announced that she would not continue as party leader and intended to leave Parliament. After a leadership race among unknowns, Carole James was chosen to direct the party in November 2003. She is accorded considerable credit for campaigning effectively in 2005 and bringing the NDP back to political relevance with 33 members in the legislative assembly; she further improved its standing to 35 in the 2009 election. That proved insufficient for the always-fractious NDPers; she resigned in December 2010 after seven years as leader and was replaced by Adrian Dix from the party's left wing in April 2011.

Nevertheless, during this period, the Liberals demonstrated that they could withstand anything except success. The grinding recession, the intensity of union opposition and confrontation, media skepticism, Campbell's personal missteps (including the drunk-driving arrest), and assorted Liberal party scandals brought the NDP back from the dead. First, it was no more than a heartbeat beneath the lawn, but by 2004 the NDP actually was leading the Liberal Party in the polls (despite their subsequent defeat), and Ms. "What's Her Name?" (Carole James) was rated as a better leader than Campbell, despite never having been elected to anything. By mid-2010, the NDP regarded itself as well-positioned to win the 2013 election, benefiting from, if nothing else, the fatigue factor dogging the Liberals and the general popular desire for rotation of parties in office. Then they defenestrated James who had midwifed their rebirth.

With this maneuver, the NDP also proved to be able to endure anything except prospective success. In a 2013 electoral defeat that stunned every professional observer and proved every pollster wrong (they went back to muttering over their mathematics and blaming the voters), the Liberals won. Perhaps they demonstrated that you still need someone to beat someone, and Dix was not "someone." Indeed, he proved a perfect illustration of the Peter Principle where a capable, nerd-type introvert, more comfortable with numbers and briefing books, was forced to his obvious discomfort to pretend to be an extrovert. He adopted a "front runner" stance and professed to run

a "positive" campaign saying no evil about Christy Clark (even when she ran a red light with her child and a reporter in the car). Instead, he did worse: he reinforced the paradigm of NDP tax-and-spend ideology, saying that he was going to raise taxes and implement environmental reviews so stringent that they would de facto prevent pipeline construction and new resource exploration. For her part, Clark was relentlessly negative toward Dix saying, that he was untrustworthy and would damage British Columbia's still recovering economy. Dix's implosion in the May 2013 campaign leaves his fate unknown; perhaps he qualifies for "dead man walking" status despite presenting a brave face to disaster.

No "Green Machine" for British Columbia

Conceptually, British Columbia with its intense concerns over the environment, energy development, pollution, and now climate change should be congenial to Green movements. During the 2001 election, the Greens' program of radical environmentalism presumably attracted enough disgusted NDPers to puff up their 12 percent of the vote, but they won no provincial assembly seats. Observers at the time also suggested that the Green leader, Adriane Carr, did not "grow" during the campaign and predicted she would not become a significant political force. Nationally, the Greens struggled to become more than a granola-munching bunch of tree-huggers and sought to develop a more sophisticated platform, including free market-type planks. While they were active in British Columbia and nationally throughout Canada in the 2004 federal election, they elected no one; they repeated this outcome in 2008 before breaking through by electing Green Party leader Elizabeth May in the May 2011 election.

Throughout this period, prime Green candidates in British Columbia were giving a fighting chance in specific BC provincial ridings, but none was successful. For her part, Carr flailed provincially, and the Greens fell electorally in 2005, reflecting the NDP resurgence. She resigned and was replaced in October 2007 by Jane Sterk, who in six years never made a mark, announcing in August 2013 that she would resign. Sterk's Greens pulled a lower percentage of the 2009 vote than the Greens won in 2005, and had still fewer votes in 2013. Nevertheless, the Greens won their first provincial assembly seat in the 2013 election in a Victoria riding, and the victor, Andrew Weaver, became the obvious candidate for Green leadership.

Indeed, the failure of the Greens is partly a reflection of the political reality that now everyone is trying on "green" as the color of the era—or at least a pale shade of it. Nobody has to lament, as does Sesame Street's Kermit the Frog, the difficulties of being green. When Premier Campbell implemented a carbon tax in July 2008, increasing the price of gasoline, that decision increased the popularity of the NDP opposition, which immediately instituted an "ax the tax" plan. The effort to promote the federal Liberals' Green Shift, if anything, made the Campbell carbon tax even less popular, despite offsets and tax rebates ostensibly designed to make the tax revenue neutral. And the "true Greens" have not been able to seize ownership of the topic, leaving them with continued support "a mile wide and an inch deep." All these contortions have led to one elected representative, first in federal Parliament and now in British Columbia. Perhaps when everyone is "green," in reality nobody is.

The Economy Has Finally Recovered but Did Not Spin on a Dime

During the NDP years, British Columbia moved from being a "have" province to "have not" status and began receiving transfer payments from Ottawa in 2002. Needless to say, this was embarrassing for BCers, but it was a development that the Liberals had predicted and were able to lay at the NDP's door—and that was certainly better than not having the money.

Unsurprisingly, the provincial finances were in even worse shape than announced before the 2001 election. A "fast ferry" project, which developed and procured at enormous cost a number of high-speed ferries for intra-provincial travel, proved totally unworkable; ultimately, they were sold at enormous loss. Energy exports were not as high as in 2000, and the slothful U.S. economy immediately post 9/11 hurt since British Columbia's symbiosis with the United States is a key to its economy. Expenses, particularly from health care, which in July 2001 were $400 million over budget, escalated further; although the costs could be blamed on the NDP, they still had a depressing effect on the economy. Likewise, the Liberals' 25 percent tax cut drained revenues, but its stimulating effect was slow to come. Nonetheless, gradually, as the economy across the continent improved following the 9/11 shock, it also improved in British Columbia, and generally the province was regarded as having "turned the corner" after 2005. Still, by 2008 with a United States heading toward "Great Recession" dimensions and housing decline in the offing, exports such as lumber plunged, and the economy performed badly in 2009 with recovery still slow in mid-2013.

BC government employees are heavily unionized and hostile. Consequently, every attempt to cut spending has been met with significant demonstrations. The Liberal government went nowhere near as far as the Klein government in Alberta did in 1993 in restructuring and reducing spending; the result remains very expensive governance in the province.

Moreover, while all agree that the business climate is significantly more positive under a decade of Liberal government, initially there was more promise than performance. Despite intimations that the Liberals would consider offshore drilling for oil and gas, it now appears further away than the next millennium given the Deepwater Horizon Gulf of Mexico oil spill. There is a vague intimation that environmental ideologues might accept natural gas drilling (gas won't spill), but their antipathy to a pipeline that might bring "dirty" Alberta oil to the pristine West Coast for export to China remains epic. Building a Northern Gateway Pipeline will require Herculean effort—and perhaps will end with analysts recalling that Sisyphus ended crushed beneath the rock he never could get up the hill. Likewise problematic is the proposal to turn Kinder Morgan's Pipeline that would bring additional Alberta oil to the Vancouver area (and predictably opposed by environmentalists, First Nations, and municipal councils).

Although the Liberals attempted to make it clear that the province is "open for business," investment remains in short supply. British Columbia may be "open," but it's short on customers—and the off-and-on recessions have not helped. Disagreement on hardy perennials, such as softwood lumber and energy costs, has continued. Pipeline battles are another barrel of cold water on economic investment.

Frankly, the softwood lumber imbroglio appears destined to persist until North America is clear cut. At essential issue is the persistent U.S. assertion that the Canadian (mostly BC) lumber industry receives government subsidies at the federal and provincial level that allow it to conduct foreign trade at below-market rates. The U.S. tactic has been to ignore adverse WTO and NAFTA decisions on softwood and to pursue further legal options. That U.S. tactic has frustrated the BC lumber industry to the extreme, as forestry continued to decline and sawmills closed. On the U.S. industry's side, it was cheaper to hire more lawyers and drag out the argument than to modernize equipment. The eventual agreement on softwood in October 2006 orchestrated by the Harper government and the George W. Bush administration engendered as much irritation as satisfaction. It was largely viewed as a reloading break rather than a ceasefire, and starting in early 2008, the sides were back in court with still more disagreement over implementation. Decimation of BC forests by pine beetles further depressed the industry but generated large amounts of ostensible "damaged" timber for export, but there remains no obvious solution either to the beetles or the trade battles. The depressed U.S. housing market, driven by the sub-prime mortgage crisis, has beaten down exports still further and the legal battles have continued. (See Chapter 12 for further details.)

In essential economic terms, British Columbia is a "have" province; it has natural resources, scenic vistas to die for, and a vigorous population that assures it will be one of the global success stories of the twenty-first century. In tactical terms, however, it has been a very long street for the Liberals, and the "corner" around which the economy is supposed to turn sometimes leads into a cul-de-sac. Over the long run, the now-victorious Liberals under Christy Clark still hope to import the Alberta formula of restraints on government spending plus incentives for business to restore prosperity. It is the right formula, but could take years to implement, and even the freshly victorious Liberals may not endure long enough to see it.

The Core of the Problem for the Canadian West

A handful of additional seats in parliament projected for 2015 are irrelevant—even larger numbers will be going to Ontario. As long as Ontario has more MPs than the total of the West—and it will until Western population is greater than Ontario's—Ontario will have more political influence than the entire West. And that says nothing about the political weight of Quebec, with almost as many parliamentary seats as the Western total, and with further seat increases due for 2015 that are "political" rather than demographically justified.

There is nothing in the Canadian political structure, including a Supreme Court selected by the ruling party that protects provincial rights. For all practical purposes, the "notwithstanding" clause of the constitution is a dead letter in Alberta, as illustrated by Premier Klein's reluctance to employ it short of a popular referendum of undefined dimensions on a specific issue. And then there's a commensurate reluctance by Klein's colleagues and successors in other Western provinces to employ the notwithstanding clause. Of course, you cannot force individuals to defend themselves; some slaves learn to love the clanking of their chains.

Tangentially, Ottawa means less and less to the West; and Harper's Conservative

government has sought to enhance provincial autonomy further. For Westerners, Ottawa generates regulations and obstructions rather than answers. Citizens are looking to provincial governments to provide their highest priority needs in health and education. Before the Great Recession, federal contributions to health services were projected in 2010 to be 11 percent of Alberta expenditures; government officials claimed they could manage the full costs themselves, if necessary. The First Ministers' conference in 2004, an event that brings together premiers with the prime minister, ostensibly was directed to fixing Canadian health care for a generation. That was feckless from the get-go. And health care costs continue to rise faster than inflation; the thought of returning in 2014 for another round of health care confrontation excited no enthusiasm or prospect of collegial agreement. Consequently, British Columbia and Alberta welcomed the surprise Ottawa decision that health care funding post-2016 will be linked to inflation and population increases and money distributed to provinces without detailed federal spending restrictions.

Nor does the approach as proposed by Warren Kinsella in early 2001 offer much comfort. To many, it sounds like "a lot of whining ...by a bunch of losers." Although Kinsella has passed into the blogosphere, his attitude remains extant among the federal Liberals and New Democrats. Hence the 2001 suggestion by then-Minister of Interprovincial Affairs Stéphane Dion, who said that the Liberals can't change their policies just because 75 percent of the West voted against them because that would be unfair to the 25 percent that supported them. Rather disingenuously, the Liberals suggested that if the West wanted more influence, the answer is simple—elect more Liberals. How brilliant and insightful! However, taking that suggestion to extremis, assume that all 308 MPs were Liberals (or Tories for that matter). In such an instance, the interests of Ontario and Quebec would still massively outweigh Western interests. Bluntly, in other words, electing more Liberals or Tories would solve nothing essential for the West.

The combination of a lack of political success on the federal level and the reality of economic exploitation has left the West with an "attitude." Such is in partial abeyance given a Tory majority government, but remains an underlying socio-political factor for the region. In the West, a December 2000 poll indicated that 53 percent of Alberta respondents said their province was treated worse than other provinces. In contrast, only 37 percent of Quebeckers and 12 percent of Ontarians felt disrespected. Nevertheless, this judgment did not then affect Alberta's and British Columbia's commitment to Canada, as other polls indicated stronger than average attachment to Canada. A more recent, June 2010 Maclean's, poll reported that 62 percent of BC residents thought their province had less than a fair share of influence on "important national decisions."

But at this juncture, all of the theoretical solutions would appear to require amending the constitution and hence reducing the powers of the currently advantaged provinces. Proposals include some method of proportionate representation instead of first-past-the-post election, Senate reform, or even splitting Ontario into five provinces. None of these approaches appears feasible—definitely not a good near-term bet.

A Cautionary Note for the Canadian West

Being large, rich, and powerful is wonderful. Being small, poor, and weak is pitiful. But being small, rich, and weak is dangerous. In geopolitical global terms, the Persian Gulf states were akin to paraplegics in solid gold wheel chairs. The surprise wasn't that Kuwait was "mugged" by Saddam Hussein in 1991; the surprise was that he waited as long as he did and was so clumsy about it.

Currently, even in the Great Recession, Alberta falls into the "fat and sassy" category, with no sales tax, low unemployment, the projected lowest provincial income taxes, rebates to handle increased energy costs, a manageable provincial deficit, and, de facto, no provincial debt. As soon as the recession ends, there will be surpluses as far as the eye can see, permitting additional investment in education and health services to boost the "Alberta advantage" still further. Boom, boom, boom. Enviable; very enviable. And still they complain, mutter Canadians in the East?

For Alberta, the great *bête noire* is the Trudeau Liberals' 1980 Natural Energy Program, which in their view robbed them of the benefits of the energy boom of the day. Liberals tell them to "get a life"—the NEP ended more than 25 years ago, and NAFTA rules prevent a comparable predation. Alberta, however, has the skittish feeling of a spouse abused years ago who accepts intellectually that it was an aberration, but believes viscerally that it could happen again. The point is reinforced by individuals such as the late Alberta Premier Peter Lougheed, who in a February 16, 2001, op-ed noted that "it's not beyond the talent and ingenuity of federal mandarins to design quite a different policy...to hive off revenue from resource owners, such as Alberta... it would be unwise to underestimate those forces that would want to develop such a plan." A more current version was the trash talk about Alberta's oil sands by then Quebec Premier Jean Charest, then Ontario Premier Dalton McGuinty, and then Toronto Mayor David Miller at the December 2009 climate change world summit in Copenhagen. And NDP leader Thomas Mulcair's musings in 2012-13 over Alberta oil resources stimulating the "Dutch disease," driving up the Canadian dollar, and talking about environmental controls that remind Alberta of the NEP. Talk about gnawing the feeding hand!

Is this paranoid thinking? The realists say that Ottawa and Canadian politicians of all ideologies recognize that Alberta must be a major engine for Canadian economic success, given the faltering auto and general manufacturing industry in Ontario and the decline of seafood and softwood lumber extractive industries in the Atlantic provinces and British Columbia. Consequently, Ottawa will do nothing to damage this golden-egg-laying goose. One major research institution, when quietly approached by business representatives to determine what Ottawa might do to extract more revenue from Alberta *à la* the NEP, professed that it could not determine what could be done.

To a degree, the Chrétien-Martin Liberal governments in Ottawa tried to stay out of the way. The federal government made no objection to Klein's energy-focused visit to then U.S. Vice President Cheney in 2001, and facilitated meetings with senior Mexican energy officials. Nor was there a significant federal reaction to Klein's criticism of the Bonn codicil to the Kyoto "Global Warming" agreement. But Canadian adherence to the

Kyoto Treaty went forward all the same with ratification completed in 2002. One can argue that Canadian reservations made its provisions effectively inoperative and that as long as the United States refused to agree, federal authorities would not seek to impose restraints on Canada that would damage competitiveness. Conversely, they could cite 2004 polls to the effect that Alberta reportedly then endorsed Kyoto objectives. At the same time, Canadian officials were hardly front and center at the December 2009 Copenhagen "climate change" extravaganza. Canada garnered a "fossil" award for recalcitrance regarding that meeting's objectives. In Alberta, such a designation would probably be regarded as the equivalent of a Medal of Honor. Ottawa's December 2011 withdrawal from the Kyoto Protocol generated frenzy from the liberal left, reinforcing Alberta's suspicions that Kyoto is really directed against them.

Essentially, the Liberals and the NDP have a long history of failure with Alberta. Despite Chrétien's teary-eyed exultation over "his Rockies" when expressing love for Canada, his emotion did not extend very far in Alberta. Following their 1993 sweep of the country, the Liberals held a handful of seats in the Edmonton ("Redmonton") area but it was a lonely bastion against rising Reform, Alliance, and Conservative tides that steadily eroded until only the maverick David Kilgour held an Edmonton seat on personal credence having nothing to do with his ostensible Liberal party designation. And currently the sole NDP representative appears to be an exception, pointing to the rule of aberration rather than serving as a beachhead for any NDP surge.

Nevertheless, Chrétien was able to use Ralph Klein to offset Mike Harris' Ontario 1999-2003 Tories, when Ottawa-Ontario relations were at dagger point. Relations with Premier Dalton McGuinty's Liberals were far from perfect during the Martin incumbency, but McGuinty needed Ottawa's financial support, was not getting it from the Tories, and would have cooperated with a Dion Liberal government in Ottawa. In contrast, Harper, elected from a Calgary riding , at a minimum appreciates Alberta's political and economic needs and would not do the province gratuitous damage.

Martin, however, demonized Klein during the 2004 federal election; Klein was not amused and relations were not improved by having Martin present at the 2005 Calgary Stampede implicitly to flip him "the bird" (and a few pancakes) while raising money from Liberal supporters. Klein made his irritation clear by skipping the last two days of the First Ministers' conference in 2004, intimating that those discussions were feckless posturing (as they were) and that he preferred to spend his time more productively (if not profitably) in a local casino. By the 2006 election, all of the Liberal seats in Alberta were history. Dion was constrained to using his 2008 presence in the province just for fund raising—visiting Alberta in the course of selling the Green Shift to talk to the Liberal choir and raise money for the funds-short Liberals. For their part, some media suggest that since Alberta has the carbon, it must pay the tax.

Of greater concern for Alberta was Liberal leader Stéphane Dion's commitment to "The Green Shift"—a complex energy, tax, environmental, and economic plan introduced in June 2008. The plan, which doubled as a significant portion of the Liberals' campaign platform in the 2008 federal election, presumably would have been implemented had the Liberals won the election; it would have put significant additional tax burdens on

Alberta's energy production. The proposal, which was excoriated as a "carbon tax" and depicted by others with deleted expletives, could have substantially damaged Alberta's economy by discouraging the investment necessary for extracting oil from the oil sands. Whether the Dion Liberals would have been as cavalier in government as they appeared in opposition is now an irrelevant question; however, with no representatives among the 28-member Alberta caucus, Liberals had no incentive to go easy on Alberta when Dion foresaw the carbon tax as the source of funds for Liberal social spending.

Nor did Michael Ignatieff, Dion's successor as Liberal leader following the 2008 election, learn from invidious experience of his predecessors. While he made a stab at saying the right words regarding the value of the oil sands for Canada's economic future, he then gainsaid such a position by stating that he wouldn't permit transshipment of oil to the West Coast by pipeline for sale to Pacific Rim countries. That statement was simply gratuitous shin-kicking, as the likelihood of a pipeline to the coast was hardly imminent at that point and still is problematic, but keeping the option open—when you are not even in power—is useful. But the Liberals still don't seem to have grasped that point in their political-economic commentary following the 2011 election—nor does the NDP.

Nevertheless, if Alberta anticipates "tough love" now, just wonder how much sympathy central Canadians, who are suffering from ever rising energy bills and $1.24/liter fuel prices in mid-2013 (down from $1.50, pre-recession), would offer them if Ottawa devised some neat fiscal gimmick (call it Green Shaft Mark II) to extract more eggs from the golden geese in Calgary to deal with the ramifications of a "double-dip" recession.

The American Answer

It is not as if the relationship of small or thinly populated areas to large, densely populated regions is a politically unknown phenomenon in North America. The United States faced the issue at inception. The American question was how to persuade states such as Rhode Island, Delaware, New Hampshire, and Georgia to join political and economic powerhouses such as Massachusetts, New York, Pennsylvania, and Virginia. The compromise is a widely known political science classic: a Senate in which each state has two representatives balances a House of Representatives whose numbers are determined by population. The result has been workable, but hardly perfect.

Indeed, for Americans, the specter of Western alienation is a historical constant. Throughout much of U.S. history, the West was underpopulated with its natural resources exploited by Eastern-dominated banks and extraction industries. Populist movements akin to comparable Canadian movements roiled the political surface at the turn of the twentieth century. William Jennings Bryan epitomized this Western alienation and thrice led the Democrats to defeat espousing the then-popular populist causes of the day.

Those who follow U.S. politics closely know that Western are mostly "red" states that predominately support Republicans and complain bitterly about "Washington." Their laments are most pointed when activist Democrats hold the presidency and issue expansively restrictive land use and environmental regulations. These Democrats care as much for Western (Republican) concerns as Liberals care about Western (Reform, Canadian Alliance, Conservative) concerns. Occasionally there are even silly

season media reports of one tiny jurisdiction or another voting to "secede" from the United States; they are bleats for attention to local grievances. Their ultimate power and defense lie in the Senate where 23 states (with almost half the Senate votes) can be classified as small in population. With this potential power and the absence of anything like serious party discipline, every U.S. vote is a "free vote," and small states are able to bargain to protect their interests. As a result, there are legislative limits to the extent that Washington can ignore or exploit them.

In that regard, the Canadian West must recognize that it will be structurally disadvantaged—forever, or at least as long as the current federal political structure endures. The proponents of the "Triple-E Senate" (equal, elected, effective) appreciate that reality, but in the absence of basic constitutional revision, there will never be a Triple-E Senate. Indeed, those in Alberta who are electing senators-in-waiting with the hope that the prime minister will continue to appoint them from such a list are chasing a chimera. Even when occasionally successful, such as with the Harper appointments of Bert Brown in April 2007, Betty Unger in January 2012, Doug Black in January 2013, and Scott Tannas in March 2013, it would lead to still greater frustration. Does Alberta want to have the right to elect as many senators (6) as Newfoundland (also 6)? Or to recognize that the combination of Nova Scotia (10), New Brunswick (10), Prince Edward Island (4) and Newfoundland would elect five times as many senators (30) as would be Alberta's allotment? To hypothesize that election would be a step forward would be relevant only for those that believe walking into a cul-de-sac is going to get you somewhere. Indeed, "election" is the most trivial part of a Senate's authority; it was not until 1914 (under the 17th Amendment to the Constitution) that the United States elected senators by popular vote. The keys for Senate power are equality in numbers and political authority. Without such political restructuring, Alberta and other parts of the West will always be open to exploitation; they are dependent on the good will and restraint of central Canada to limit the level of their exploitation. The West is "down" and "out" by definition; the question is whether Central Canada will refrain from kicking them?

Western Independence

For most Albertans and Canadian westerners, independence is the crazy uncle in the attic—a guy who is paranoid when he should merely be neurotic. They do not seek independence; their history is tied to the rest of Canada by the natural westward expansion of explorers, settlers, and immigrants. They did not become part of Canada through conquest; there is no irredentist or minority language element hoping to regain lost independence. They are Canadians because, well, because they are. Nevertheless, as is the case for Quebec, various geographic sections of Canada could quite readily qualify as independent states. Both Alberta and British Columbia, either together or separately, would quite easily qualify for the full panoply of powers as independent, self-sufficient, "first world" nation states. The basics of clearly defined territory, coherent population, extensive natural resources, economic development, internal security, and democratic "rule of law" epitomized by effective government would just be checkmarks to be noted, not obstacles to be overcome so far as independence is

concerned. One could easily see them as members of the United Nations in 2050, if not earlier.

It would be useful for Canadians as well as Albertans to note these realities for what they are—an option and a potential that may never be exercised, reflecting a reality that cannot be denied. The reverse of this coin should be recognition by Ottawa that there are upper limits to Western complaisance, and the Ottawa federal government is closer to hitting this ceiling than in the past.

12 THE ECONOMICS OF INEQUALITY

The Traditional Politico-Economic View

The U.S.-Canada economic relationship is characterized by an exponential difference of 10 to one. The ratio pertains both to the massive difference in our populations (approximately 313 million to 34 million as of mid-2013) and the commensurate disproportion of our economies. Canada has struggled against this reality and sought greater appreciation of its economic strength both bilaterally and internationally. But when most foreign ministries have a "North America Bureau" within which Canada is the appendix to relations with the United States, it is an uphill battle to obtain this recognition.

Traditionally, Canada has been regarded unfairly as more a "hewer of wood, drawer of water" in style rather than an advanced, high-tech manufacturing and industrial economy. It has been characterized as rather stodgy when it wasn't described as suffering from semi-socialist government control with social safety net expenditures driving its federal budgets into dangerous debt and deficit. At one point in the mid-1990s, the *Wall Street Journal* described Canada as a third-world economy with the intimation that the country was in dangerous economic straits. The Canadian dollar (the "loonie," curiously named after the diving bird embossed on one side of the dollar coin) began to resemble its nickname plunging at its lowest to 61 cents against the U.S. dollar in January 2002.

Canada's industrial operations were characterized by significantly lower productivity than U.S. counterparts. Its banks and banking procedures were regarded as lagging in the utilization of sophisticated debt instruments and borrowing techniques. Its stock markets were more risky for a conservative investor. Higher personal and corporate taxes, along with the absence of a tax write-off for interest on home mortgage loans, were also viewed as depressing the Canadian economy.

Furthermore, Canada has struggled with some success against being characterized as a "resource economy" (or a "branch office" economy relative to U.S. manufacturing firms), but such a description is closer to reality than Canadians would like to believe. Highly successful, cutting-edge firms were purchased by U.S. investors who then moved their most creative elements to their U.S. operations. Repeatedly, the best and brightest from Canadian universities and business and finance circles ended up in the United States. For some, the money was irresistible; for others, it was the R&D opportunities. Still other de facto expatriates in the arts believed that success came only when competing on the biggest stage—and that platform was in Hollywood, not Toronto. Staying in Canada suggested a lack of imagination or ambition, almost a provincialism—unless you were hindered by the mediocre English demonstrated by most francophones and consequently forced to make "lemonade."

Nevertheless, being a resource economy is not necessarily a bad position, particularly when your resources are in vast and increasing demand—and give no indication of being limited in the foreseeable future. Being the world's largest supplier for the world's largest market is an enviable position—even in a recession—and the Great Recession has barely dented Canada's foreign markets.

Canadian Negotiating Tactics

Historically, there has been a variety of approaches available for Canadian weakness to deal with U.S. strength.

Theoretically, Ottawa could simply be grateful that Canada has survived, that the United States has not exercised the political dominance that its military strength could easily have accorded. Areas that are rich and weak do not usually end in benign relationships with overwhelmingly powerful neighbors; History suggests that they such areas are - quickly incorporated by their neighbor(s), perhaps through direct military conquest or by a "referendum" crudely manipulated by the neighbor. And when 85 to 95 percent of the Canadian population lives within 50 to 100 miles of the U.S. border, many with family ties in the United States, annexation would barely have been a hiccough. Happily, that action has not happened; there has been no aggression, although more than a lunatic minority of Canadians voice suspicion over any action by or proposal from Washington that it can interpret as leading to "loss of sovereignty."

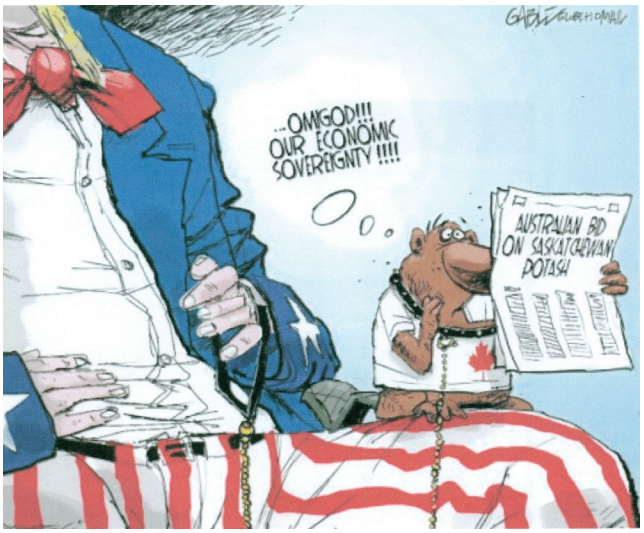
Individuals and nations rarely are grateful for a congenial persistent reality that they have come to take for granted. How many Southern Californians awaken and say, "How wonderful that it is a beautiful day"!? But the United States qualifies as "Goliath" in today's world, and Goliath is not only unloved, but looks a bit silly complaining about the absence of affection.

The historic anomaly persists because the United States is the United States and is not one of the aggressive combines that have marked history and notably characterized the twentieth century. Canadians can rest easily in their beds—and profit from the relationship.

Consequently, there has been a sense in Ottawa that in bilateral economics, the United States may be the 800-pound gorilla compared to Canada's 80-pound chimpanzee, but the chimp can outwit,

outmaneuver, and generally manipulate the relationship to its advantage. It can even poke the gorilla upon occasion—so long as its pokes avoid blatant stick-in-the-eye actions.

In so doing, Ottawa has invariably sent its "A Team" to the negotiating table. It is not so clear that the United States has always done the same. There has been in Washington an attitude that "if you can't get along with the Canadians, it is your failure rather than theirs." Being "tough" on the Canadians gets little political resonance compared with being tough on Mexicans, "south of the border" denizens, or perceived major competitors such as the Japanese or Chinese. Thus the implicit stance is that the United States should be able to leverage its economic power without being blatant about it, and Canada plays the "poor little me" card to perfection. There has never been a bilateral agreement the result of which has not left the Canadians complaining about the outcome, an international decision favoring the United States that was viewed as correct or judicious, or a U.S. proposal characterized as fair. For a U.S. observer, it is tiresome but true.



Brian Gable, Globe & Mail, 2011

Yet there are a number of illustrations in which Canada extracted a better deal than the economic factors might have suggested.

The Auto Pact

The Auto Pact, officially known as the United States Automotive Products Agreement, was signed in January 1965 between President Lyndon Johnson and Prime Minister Lester Pearson. It eliminated tariffs on cars, trucks, buses, tires, and automotive parts. The agreement also ensured that automobile production in Canada would not fall below 1964 levels. The move headed off a pending "auto war" with the United States, which was poised to claim that Canadian manipulation of tariffs related to "Canadian content" in automobiles violated the General Agreement on Tariffs and Trade.

The immediate result was a vastly expanded North American production schema with construction of much larger production facilities in Canada to produce a single vehicle for distribution throughout North America. Thousands of jobs were created at increased wages and higher labor productivity; automobile costs for Canadian purchasers fell. Previously, only 7 percent of cars made in Canada were exported to the United States, but following the Auto Pact, exports rose to 60 percent by 1968. A previous trade deficit was reversed, and Canada benefitted from an export surplus in the billions of dollars.

Naturally, Canadian critics whined. The jobs were primarily "blue collar" jobs and not the administrative and R&D positions that remained in the United States. In truth, there is no evidence that without the Auto Pact, the Canadian auto industry would have thrived or even

survived any more than the Canadian aircraft industry survived. Indeed, by the 1960s, there were no indigenous Canadian auto producers, but rather adjuncts of U.S. producers.

Instead, the thousands of jobs that were created benefitted Canada (and these were jobs not created in the United States). Canadians would not have purchased significantly fewer U.S. automobiles had this agreement not come to pass. The existing tariffs were not prohibitive, and the U.S.-produced vehicles of that era were highly attractive. The suggestion that Canada might have partnered with Japanese or European automakers is an unknowable hypothesis, but has a chimeric aspect to it as it is doubtful that Japanese or European manufacturers would have found the small Canadian population base of the period attractive—if they didn't also have access to the United States.

Ultimately, we can argue that the Auto Pact was good for the old "Big Three" U.S. automakers by providing production efficiencies in a slightly larger market; however, it deprived the United States of thousands of good, middle class jobs—and the taxes that those workers would have paid to the U.S. Treasury.

Prior to the Auto Pact's cancellation in 2001 as a violation of World Trade Organization rules, it was technically overtaken by events—in the form of the NAFTA, which eliminated requirements for Canadian content in vehicles sold in Canada. Nevertheless, production facilities throughout Ontario and Quebec continued to benefit Canada greatly until the still ongoing Great Recession and production contractions that damaged the automobile industry throughout North America.

The Civil Aviation Agreement "Open Skies"

In the mid-1990s, civil aviation between the United States and Canada, if not quite at the level of the Wright brothers, was not significantly better than the Charles Lindberg era of passenger flight. Virtually every frequent traveler between the countries had horror stories of convoluted flight schedules, extended delays in transit, limited seating, and obscure rules preventing convenient travel.

Ambassador James Blanchard described some such flights in *Behind the Embassy Door*: between Ottawa and Boston, "an awful propeller plane…It looked smaller than the one used in Casablanca, was jam-packed with 33 people, and reeked of the lavatory." Another example was found in the five-and-a-half-hour "marathon" style of air travel between Ottawa and Washington, requiring a flight to Toronto, a plane change to fly to Boston, and then a flight to Washington—where one could "put in a claim for missing luggage." Other paths sent travelers through Syracuse to reach Ottawa. There were no direct flights between the capitals.

The explanation was simple: Canadians were terrified that easy access for U.S. airlines to Canadian cities would bankrupt the essentially noncompetitive Air Canada. Although the airline was no longer a crown corporation, Transportation Ministry bureaucrats continued obstructive, uncooperative protective behavior designed to prevent any agreement. And, indeed, they were successful. According to Blanchard, by 1994 there had been 13 unsuccessful efforts to update the agreement over the previous two decades, including three in the previous 10 years. The United States had, in effect, given up—at least flight conditions were better than in the 1960s when

passengers were forced to fly to a border city and then change planes to a national airline for the rest of the flight.

The combination of vigorous pressure by the politically well-connected Blanchard and a "time has come" attitude within the Canadian business community and among tourism promoters eventually generated enough impetus to force agreement in time for its signature during President Clinton's visit to Ottawa in February 1995. And, at that, the new agreement was initially a far better agreement for Canada than for the United States. While Canada had immediate access to all U.S. cities, concomitant unlimited U.S. airline access to Montreal and Vancouver was deferred for two years and for three years to Toronto. Of course, American carriers could have immediately flown to Yellowknife, Quebec City, Saskatoon, and Winnipeg.

In the greater scheme of economics, the agreement certainly boosted bilateral passenger travel. In the first three years, travel grew 37.2 percent (versus 4.3 percent in the three previous years). Ultimately, Air Canada's opportunities to fly anyplace where it could obtain landing slots in the vast U.S. market, including tourist destinations such as Miami, Honolulu, Los Angeles, and Las Vegas, provided far greater financial potential than U.S. access to the Canadian market. On the other hand, senior U.S. officials could now fly directly to Ottawa, mixed blessing as that might be for U.S. airlines.

The Softwood Lumber Agreement

And then there was/is/will be softwood lumber. When a dispute's duration precedes the creation of Canada, it is likely to persist until North America is clear cut into desert. Indeed, it may be essentially systemic, reflecting the differences between most Canadian lumber production (many areas operating with government support mechanisms) versus U.S. free enterprise production. There are, for example, no difficulties with Canadian lumber produced under free enterprise in the Atlantic provinces. Consequently, it would be feckless to recount the backs-and-forths of this dispute.

Nevertheless, the current agreement (extended in January 2012 through 2015) came into effect in October 2006. It was an agreement resulting more from exhaustion than conviction. At its (admittedly oversimplified) core, it addressed difficulties stemming from the expiration of a bilateral agreement signed in the early-1990s. The United States had then placed unilateral tariffs and export limits on Canadian lumber; Canada rejected these and won NAFTA rulings in dispute resolution panels. Conversely, the United States won WTO decisions that Washington regarded as more pertinent—and urged a negotiated settlement. Canada claimed it had won the legal case and declined to negotiate. The issue remained unresolved and heated, engendering intemperate remarks by then Prime Minister Paul Martin for several years until flaring tempers cooled and the 2006 agreement was hammered out.

The essence of the agreement was the imposition by Canada of restrictions on its softwood lumber exports, with steep tariffs as the consequence if agreed-upon limits were exceeded. Export fees collected previously by the United States were to be returned. A skeptic would say that it was an agreement that could have been secured years earlier if the sides had been willing to accept the obtainable rather than the ideal agreement.

But as it was, the agreement hardly generated a pause in the disputes.

The approach devised from the October 2006 U.S.-Canada softwood agreement was an attempt to depoliticize the issues. If differences could not be resolved bilaterally within set periods of time, they would be addressed by the London Court of International Arbitration (otherwise known as the "London Court" operating under "London rules," although there is no actual or physical court).

According to one account in 2007, there were at least 24 different NAFTA, WTO, or Court of International Trade actions involving the then ongoing softwood lumber dispute, not including the prospect for two U.S. constitutional cases as well. Unfortunately, a NAFTA dispute panel decision does not "trump" a WTO decision (nor vice versa), and the opportunity for extended appeal means that prompt decisions simply do not happen. Nor do the decisions come with an enforcement mechanism. The protracted differences are not a consequence of structural failures within the NAFTA provisions; indeed, NAFTA and its side agreements came with a variety of specific, thoughtfully devised dispute settlement mechanisms, including five formal dispute settlement mechanisms. Nor have they been without success; for example, during its first decade of operation, a number of specific cases were resolved through consultations under "Chapter 20" (General Dispute Settlement) and eight of 23 actions initiated under "Chapter 11" (Investment). It was the "Chapter 19" (Antidumping and Countervailing Duties) disputes that have been the most contentious.

Thus two technical points in the softwood agreement were in play for the 2007 disputes: one concerned whether Canada failed to curb its exports sufficiently as required by the agreement's "surge" mechanism, and the second dealt with federal and provincial programs to aid the forestry industry. The disputes were resolved by the London Court in 2008 and 2009—both in favor of the United States. In one, the court ruled that Canada violated the lumber agreement in its eastern provinces but not in western provinces. In the second, Canada was judged to have breached the lumber agreement by failing to calculate quotas properly and specific provinces were directed to pay an additional export charge.

The disputes continue. In 2011, Ottawa agreed to levy small export charges on softwood shipped from Ontario and Quebec after an arbitrator ruled the two provinces had breached the deal.

In 2011, the United States accused Canada of violating the agreement by underpricing wood from trees killed in the massive pine beetle infestation in British Columbia. That issue went to arbitration, and in January 2012 Canadians expressed confidence that Canada would prevail—despite its lack of success in previous claims. This time Ottawa won, with the London Court deciding in July 2012 that the United States had not conclusively proved a link between the lower costs and the increased volume of ostensibly damaged timber.

There is an aphorism that while marriages are made in heaven, the maintenance is done day-by-day on earth. Thus it is with bilateral agreements. To continue the "marriage maintenance" analogy, the existing NAFTA dispute mechanisms are capable of managing the "who takes out the garbage" level of disagreement but not the "shall we sell the

house, quit our jobs, and move to Patagonia" issues. These arguments—of which softwood lumber is only the most recent—simply must be addressed at the political level where, after all of the resolvable elements of the dispute have been chewed over by technical experts, the bag carriers are politely escorted from the conference room and the political decision-makers decide that which is to be decided, making the compromises that have associated potential political costs.

That is not to say that political leaders take any pleasure in the political risks involved in making decisions on these contentious issues. To avoid the political risks, they seek better bureaucratic mechanisms. More generally, the disputes illustrate that it is cheaper to hire lawyers than to adjust economic practices. And in truth, for the softwood lumber issue, the Great Recession-depressed housing construction market has also reduced the impetus to "fix" something that works, albeit not perfectly. In another dimension, it illustrates the immense complexity of balancing costs from privately-owned timber and primarily publicly-held forest resources.

But regardless of the dimensions of any tariffs or heated charges of subsidies, the vagrant question remains: if the U.S. actions are so invidious, why does Canada continue to sell to the United States? Ottawa was not compelled under force to ship lumber south. A turned back would be a more appropriate reaction to outrageous U.S. behavior, coupled with more vigorous exploitation of Asian markets. Thus Canadian whinging seems to be over the size of the profit they make from the trade—and every seller always wants more.

Nevertheless, one could also conclude that the game has not been worth the candle when considering earlier high level expenditures of bile and diatribe. It often appeared more an exercise in national pride and political posturing than real economic concern.

There are other continuing sources of anguish which are not addressed in this review. They include the matter of Pacific Coast salmon, which essentially is the problem of too many fishers chasing too few fish—with aboriginal fishing rights thrown into the mix, and that of intellectual property rights, wherein Canadians managed to escape and evade modernized regulation through a variety of "oops" parliamentary miscalculations. Twenty-first century intellectual property regulation, particularly concerning the Internet and controls over films, video and music were long in the offing for parliamentary action and finally passed in July 2012—at long last putting Canada in compliance with the 1996 World Intellectual Property Organization (WIPO) Internet Treaty. However, U.S. personal and industry losses over the past decade have been massive. Canada got a profitable free ride in this regard.

Likewise when bovine spongiform encephalopathy (BSE), commonly known as mad-cow disease, appeared in Canadian herds in 2003 and the United States closed its border to Canadian cattle, the Canadian reaction was outrage at the border closure—not outrage at the failure of Canadian livestock ranchers to adopt the precautions implemented in the UK and the United States. The Canadian mad cows effectively destroyed for the United States its Asian beef export market for most of a decade, at a cost of billions, with neither an apology for their livestock mismanagement incompetence nor any thought of compensation for the lost U.S. markets. Nor has there ever been Canadian interest in instituting the type

of comprehensive testing for BSE that characterizes Japanese slaughterhouse practice. The 2005 Bush administration decision to reopen the U.S. border in 2005 to export of young Canadian cattle (at not trivial political risk for the administration) garnered barely an acknowledgement beyond the "it's about time" type comment—the same level of response to the Korean reopening of its market to Western hemisphere beef in January 2012. But when, in February 2011, another mad cow case was detected in Canada, health officials blew it off—an approach suggesting to cynical observers not so much that the testing system was working, but that ranchers had adopted the "shoot, shovel, and shut up" maxim that had been promoted by Alberta Premier Klein. Cover up and ignore rather than control seemingly is the Canadian way—at least where beef is concerned.

Perhaps Canadians might consider some of these tariff and trade difficulties as a "defense tax" payable to the U.S. Treasury as implicit compensation for massive and continuing U.S. defense expenditures for North America.

The Recession Codicil

The Great Recession has been good to Canada.

That assessment does not suggest that these are the best of times for Canada, but relatively speaking—and certainly relative to the United States—Canada has done very well, "thank you."

Of course, "relatively" remains a relative term and doubtless Canadians would prefer to be back in the good old days of, say, October 2008, before the rigors of the Great Recession were fully appreciated. At that point, unemployment was at 6.1 percent—almost the lowest in 30 years; the Canadian dollar was close to par with the U.S. dollar—highest since 1967; the federal budget was balanced; debt was declining; taxes were being reduced; inflation was low; the economy was growing; bank borrowing costs were low; and trade was increasing.

This statistical array was good enough that the Conservatives were able to campaign on such numbers. They ignored the overhanging prospect of recession and held to that tactic, despite the squawks of the opposition. Thus, in effect, they denied that said recession would affect Canada—and would win. They still had only a minority government after the 2008 election, but they had increased their parliamentary strength and percentage of the vote.

During the next three years, marked by the May 2011 election in which the Conservatives won a majority, the Conservatives were able to argue convincingly that the Canadian economic model shielded Canada from the worst of the Great Recession—adroitly blowing off their disingenuous 2008 predictions that the recession would not affect Canada. Their management of the "it's the economy, stupid" maxim was largely the basis for their majority victory, although they were ably assisted by Liberals' campaign incompetence and feckless leadership, combined with a career year for then NDP leader Jack Layton. Nonetheless, opposition parties had a hard time arguing that the Tories had not done respectably in economic management. They were reduced to contending that other countries (for example, Australia) had better countered the Great Recession, and Canada's relative economic strength was a consequence of earlier Liberal actions in banking and tax policy—and the Tories had made things worse by reducing taxes. The current NDP Official Opposition continues to claim that taxes (particularly on

the "rich" and corporations) should be raised and that there should be no job cuts in public service positions.

Nevertheless, the Canadian economy continued to hold its own—and even improve. As of December 2012: unemployment stood at 7.0 percent—a half point lower than the United States; the Canadian dollar remained close to par with the U.S. dollar; the federal budget was not balanced and debt had grown, but the government made economically feasible projections for balance before the next (2015) election; taxes had not increased (and were scheduled for further reductions); GDP had grown by 1.8 percent albeit down from 2011; inflation was 1.5 percent; bank borrowing costs remained low; and trade was growing over 2010 figures for 2011 had exports up 11.8 percent, imports up 9.4 percent).

Consequently, Ottawa has been taking rather noisy satisfaction in its current status, which, if not quite of the rooster crowing for-having-invented-the-sun-rise dimensions, is certainly outside its normal patterns of deference. The self-congratulations over the appointment of the governor of the Bank of Canada, Mark Carney, to the head the Basel-based Financial Stability Board, may seem to some the equivalent of being proud of getting command of the *Titanic* post-iceberg, but no Canadian previously held the position. Likewise, Europeans enduring lectures on fiscal probity by Canadian Finance Minister Jim Flaherty may find themselves assuming a rictus that passes for a smile.

The current Canadian condition is not quite akin to the classic sneer levied against the rich boy born with a silver spoon in his mouth, but it can raise questions regarding the endurance of its current good fortune. Ultimately, these fortunes remain closely tied to the U.S. economy; it is hard to see long-term prosperity without commensurate U.S. recovery—and the disappointing 2012 Canadian employment figures and projected 2013 GDP growth may be harbingers of underlying economic problems. At best, the Canadian economy is stagnating. Perhaps the rooster crowed at a false dawn?

Thus there was a touch of misguided hubris in Canadian public commentary and of crocodile tears in Canadian statements of concern over the U.S. economy. The governor of the Bank of Canada predicted in January 2012 that it would be "a number of years" before the U.S. economy recovered, and concluded, "In fact, they are not in our opinion ultimately going to get back fully to the U.S. we used to know." At approximately the same time, Prime Minister Harper spoke at Davos, Switzerland, and appropriately touted Canadian economic success while condescendingly concluding that "…each nation has a choice to make. Western nations, in particular, face a choice of whether to create the conditions for growth and prosperity, or to risk long-term economic decline. In every decision, or failure to decide, we are choosing our future…" While he did not directly instruct the United States to pull up its socks, the message was blunt. A considerably less subtle approach, epitomized in Brian Lee Crowley's *The Canadian Century: Moving Out of America's Shadow*, claims that Canada has the formula for economic success. It reminds one of the 1904 statement by Canadian Prime Minister Wilfred Laurier that "Canada will fill the twentieth century." Perhaps Canadians believe that better late (even a century late) than never.

Some Current Twists of the Knot: The Energy Conundrum

Energy

Most Americans have no concept of who supplies their energy so long as the lights turn on when they flip the switch and there is fuel at the gas station pump. Few realize Canada is the largest supplier of energy to the United States. Virtually all types of Canadian "standard" energy are consumed in the United States: oil, gas, hydropower, nuclear. For decades, Canada's major concern had been getting its energy to U.S. consumers. The United States supplied much of the initial financing for exploiting Alberta's oil and natural gas when Toronto banks were skeptical. Texas oil expertise was intimately engaged in Alberta oil. It was Albertans who suffered (and Americans who sympathized) when Prime Minister Trudeau's 1980 NEP devastated Alberta's exports by forcing sales at below world costs. The NEP saga taught Albertans a lesson about federal control of energy (backed by their support for NAFTA rules that now prevent such controls) while strengthening the obvious interlock between Alberta energy production and U.S. energy consumption. Amusingly, the Texas and Alberta oil connection continued into the twenty-first century when air travel from Washington, D.C., to Calgary was routed through Dallas.

U.S. reliance on Canadian energy has grown steadily over the years, almost unnoticed until environmental activists chose the Alberta oil sands as the "hill" on which they have pitched their standard of hostility to carbon-based energy.

Enter the Keystone XL Pipeline

Until the highly political battle emerged over transporting heavy crude oil through the Keystone XL Pipeline to U.S. refineries (or westward through the prospective Northern Gateway Pipeline), the only question for U.S. concerns was access to the energy.

On a personal note, this author, with more than 30 years as a U.S. diplomat, occasionally may have "drunk the Kool-Aide." Hell, for some issues, there were times when I would have eagerly stirred the mixture.

Admittedly, during my career, I was fortunate. Issues that roiled the Foreign Service and antagonized some colleagues were those that I supported. But the hoary sobriquet remains that a diplomat is an individual sent overseas to lie for his country—and a diplomat vigorously propounds the line transmitted as instructions from the capital, or resigns.

Thus I sympathized with the pretzel positions into which the Department of State was forced by its official announcement in January 2012 to reject the Keystone XL Pipeline. And I was grimly amused at the "lead from behind" stance adopted by a White House that made the earlier decision to reject the State Department's original recommendation. "Stick it to State" was all but trumpeted by the current announcement.

It was a travesty of a decision; one that failed the sniff test.

It was the reddest of herrings to announce that the Department of State, having spent upwards of three years verifying that there would be no environmental damage from the original environmental study, was unable to endorse an alternative that deliberately skirts the ostensibly ecologically fragile Sand Hills of Nebraska. That type of artful symbol manipulation is what lawyers and

diplomats are paid to produce. The original environmental assessment was doubtless accurate; the December 2011 White House decision to defer a decision until 2013 was a transparent exercise to skip past the November 2012 election.

But Congress got clever—perhaps too clever by half. In a budget bill, it included the requirement that the president decide on the pipeline by the end of February 2012, with narrow constraints on the grounds for decision.

Flipping Congress the "bird," the administration refused to use the time, making its announcement more than a month before the congressional deadline (talk about contempt for congressional prerogatives). It beggars the imagination to apprehend that if such an assessment were a national priority, it couldn't be done in two months. (Anyone who has ever been involved in military planning knows what can be done in two months, and participants and cognoscenti offered a silent snicker at that excuse.)

What the president proved was that as long as he is in office, he will not be influenced by Congressional pressure. His original decision to defer a KXL decision into 2013—and now well into 2014—was adroitly political: placate the vital environmentalists in his reelection coalition while deflecting the wrath of blue collar workers and union members by tossing them the sop to Cerberus of an implied positive endorsement after his reelection.

President Obama hoped to exercise the same escape and evasion mechanism by suggesting that TransCanada could apply again—and presumably wait until after the 2012 election for a response. But for then, "shut up and go away."

So Prime Minister Harper expressed "profound disappointment." But he had seen this before when, in 2008, a free-wheeling economist in Obama's campaign pooh-poohed the campaign promise to revisit NAFTA. Harper knows the reality of "politics as usual" in a democracy.

In mid-2013, however, the issue remained undecided. Once again, the Department of State produced an environmental assessment, taking into account revisions in the projected course of the pipeline in Nebraska, to announce in effect that there would not be significant environmental concerns. The president continued to prevaricate, tossing new clunkers into the media winds regarding Alberta's need to assure the pipeline did not increase greenhouse gases and scoffing at the projections of jobs associated with pipeline construction.

Arguing with environmentalists on this issue is akin to wrestling with a pig. The pig loves it—and you just get dirty. Oil from the Alberta fields is neither "dirty" nor "ethical" nor "blood." It is just a carbon-based energy source that is anathema to environmentalists. It is irrelevant whether oil will be imported by tanker ships rather than transported by pipeline. It is irrelevant that upwards of 80 pipelines already cross the U.S.-Canada border. It is irrelevant that oil shipped by tanker rail cars is no safer than pipelines (refer to the July 2013 Lac Mégantic disaster, for example). The Alberta oil fields are the "hill" on which this generation of environmentalists has chosen to stake their flag and fall on their swords. Clearly, they seek to do to the Alberta fields what they have done to nuclear power—make it so difficult to build new power plants through endless litigation over environmental impact statements, safety regulations, and

rejection of sites for disposing of used nuclear fuel, that proponents are frustrated for decades, if not forever.

And even if the United States ultimately approves the Keystone XL Pipeline, you can be sure that the heavily funded environmentalist opponents will extend their effort into the courts, seeking legal injunctions about any and everything (remember the "snail darter" and the "Northern spotted owl"?). Nor can one rule out terrorist-style attacks on the pipeline construction; "eco-terrorism" exists and security during and after any construction will have to be comprehensive.

Canada is well advised to push its Northern Gateway and Energy East pipeline alternatives, where at least circumstances are not subject to the fickle fates of U.S. politics. Regardless of the obstacles posed by aboriginal concerns, protracted (often U.S.-funded) environmental reviews and protests, issues over paying the price for BC government acquiescence, and legal challenges, the Northern Gateway Pipeline will be a Canadian decision. Likewise, the projected Energy East Pipeline to east coast Canadian refineries promises potential flexibility in marketing, but can predictably expect environmentalist obstruction every inch of its length.

The Greatest Trading Relationship in the World

One of our bilateral shibboleths, akin to the "longest undefended border," has been the proclamation that the United States and Canada have the largest bilateral trading relationship in the world. To be sure, but… The sheer numbers are indeed massive, although the United States now has a larger trading relationship with the whole of the European Union. Until interrupted by the Great Recession, bilateral trade grew steadily. Without question, there are massive numbers of jobs on both sides of the border dependent on trade and industries that profit substantially from the cross-border relationships.

For some observers, this vigorous growth exemplifies and justifies the 1988 bilateral 1988 Free Trade Agreement and the 1993 trilateral North America Free Trade Agreement. The critics claim that bilateral trade would have grown extensively without either FTA or NAFTA; they can be dismissed—unless they can prove a negative. We cannot stop time in its tracks, turn back, and try the alternative route of no free trade. What is clear is that the cries of alarm from the "antis" simply did not come to pass. Canadian waters remain undisturbed, i.e., there are no U.S. plans for draining Lake Superior or other shared border lakes to irrigate Arizona; the Canadian universal health programs continue with their marginal competence. Canadian publishing and cultural industries continue to be capable of producing gems such as *Porky's* and *Porky's II*. Moreover, Canada continues to be able to prevent competition by foreign cell phone providers and keep its market cozy for expensive homegrown products; somehow, cell phone service is protected as "culture."

Of interest, however, is how much this massive trading relationship has overwhelmingly benefitted Canada—with only minimal notice of this fact taken by the American electorate. Canada has run a trade surplus with the United States for more than 25 years: its trade surplus with the United States rose from $21.7 billion in 1985 to a peak of $78.5 billion in 2005 (closely followed by $78.3 billion in 2008). Although the Great

Recession hammered down trade (merely to a $21.6 billion deficit in 2009), trade has been recovering steadily, reaching positive growth of $32.5 billion in 2012.

This represents a stealth U.S. deficit that has not been accorded the attention that our massive trade deficit with China has attracted, although one might suggest that on a per capita basis, the Canadians benefit considerably more than the Chinese. It is almost amusing that we are willing to be stung by "good guy" Canadians without substantial comment while fulminating over Beijing's actions. We say nothing over the Canadian trade rules that limit U.S. dairy and poultry exports and raise the costs of these products for Canadians—all to benefit a handful of Quebec and Ontario dairy farmers. We left it to Canadian western grain producers to fight the monopolist Canadian Wheat Board, which evaded free trade provisions and resulted in some Canadian farmers facing prosecution for selling their wheat directly to U.S. purchasers. The United States issues no economic challenges to Ottawa on such topics, despite Canada's constant lamentation over nonevents, such as going-nowhere congressional "Buy America," legislative proposals—when Canadian provincial restrictions are more onerous.

A sidebar to trade is investment. Here, also, the open-border relationship has prompted very substantial bilateral exchange. The United States is the largest investor in Canada; at the end of 2010 (most recently available figures), U.S. direct investment was more than $306 billion, or about 55 percent of total direct investment. However, Canadian investment in the United States was also very substantial: the fifth largest at $206 billion. But while proportionally Canada invests far more per capita than the United States, one only hears complaints from Canadians about U.S. investment. There is never recognition about what U.S. investment is providing in jobs (and consequent tax payments). Perhaps it is just part of the game, but Canadian public relations reactions—like Canadian football—are more irritatingly different from ours than attractive.

13 SHIBBOLETHS

Every country has shibboleths. They are those inexplicable elements to which a society appears wedded but that, despite explanation, remain opaque to outside observers. An example might be the idiosyncratic selection of one sport or animal to become nationally defining, when other alternatives would appear equally, if not more compelling.

Why, for example, have Americans, renowned for speed and efficiency, fastened on a slow, complex game such as baseball as our national sport? Myths abound over its inventor and geographic origins, and most of these legends have been debunked in one way or another. Nonetheless, Abner Doubleday and Cooperstown, New York (home of the Baseball Hall of Fame), are essential elements for U.S. national myth—complete with a national celebration over the last All Star Game in Yankee Stadium in July 2008. Granted, baseball's (partial) eclipse by football—a faster collision sport—also requires bulky expensive equipment and substantial numbers of players operating under ever more complex and arcane rules. But the virtual national holiday associated with the "Super Bowl" (and its distinctly odd Roman numerical labels, XLVIII for 2014's 48th anniversary of the event) contend with baseball's "World Series" for TV viewers.

In contrast, a sport such as soccer ("football" in the world outside North America) is fast, simple, requires minimum equipment, and can be played by a "normal size" individual, male or female. At its base, it doesn't require more than two players and a ball—at least for a practice; even one player working alone can develop many elements of the game effectively. Soccer is played globally with enormous, sometimes riotous and violent fan enthusiasm, while neither baseball nor North American football has anywhere near comparable resonance. Despite repeated efforts to bring soccer to the United States, it still has the odor of a hot-house plant with

professional leagues regularly being launched, only to collapse. Its major constituencies are Latin American expats and "soccer moms" who fear for their children's expensive orthodontic constructions in collision sports.

Consider also our choice of the bald eagle as the national bird. Ben Franklin's choice would have been a wild turkey. Would Americans have been more like Canadians had we chosen as a national symbol a rather pacific, edible animal?

And, perhaps more socially compelling, why have Americans made the Second Amendment right to bear arms a societal definer—despite substantial human tragedy costs, too often repeated, and the clear desire of most who normally define cultural norms to limit such rights? We blow past Columbine, Virginia Tech, and Newtown with little more than PR blips. Do we envision Minutemen leaping to arms to repulse invading Klingons?

But these are for others—particularly Canadians—to parse when examining American mores.

In contrast, the following commentary will examine some of the Canadian mysteries that leave outsiders (or at least U.S. outsiders) engaged in head scratching.

Water

Canadians obsess over water. One would think them to be characters in Frank Herbert's series of novels based on the planet *Dune*, where each drop of water was precious, corpses were rendered down for their water, and tears were a significant tribute to the dead.

The reality is that Canada has the world's greatest reserves of fresh water. Still, Canadians go into regular frenzies of professed fear that the United States will suck them dry. Indeed, it was amusing to watch the tempest in the dovecot when, in August 2008, a Montreal think tank suggested that Quebec could generate $65 billion in gross revenue with astute export of a small percentage of its renewable fresh water.

Even more amusing is a society with what was absent throughout most of human history, —potable water, now ignoring its exceptionally safe and pure urban water supply—created at the cost of untold billions of dollars—to guzzle designer water from plastic bottles. While at the same time professing commitment to "green" attitudes and action, Canadian bottled water drinkers waste the hydrocarbons transmuted into plastic and then puzzle over how to recycle them. The simple answer is to just drink "*eau de Rideau*" from the tap, unless they are convinced that the 2000 Walkerton, Ontario, malfeasance by water employees is a Canadian custom.

For an American, the Canadian water myth verges on the ridiculous. To be sure, there are water constraints on development, notably in the U.S. Southwest; however, the focus in the United States has been on conservation and recycling, rather than attempting to transport vast quantities of water over thousands of miles. Indeed, the combination of engineering obstacles and gigantic costs leave those below the southern border simply shaking their heads at the Canadian "suck us dry" conceit. And the likelihood that the United States, which hasn't been able to break ground for a new nuclear power plant in more than 30 years, could navigate an environmental impact statement of the dimensions to bring such a water transport project to fruition is minimal—at least before

Arctic ice totally melts. Why, today we probably couldn't even build the Hoover Dam outside of Las Vegas, Nevada, given the invidious effects that it had on the environment when originally constructed.

And the years of effort to obtain internal agreement for the Keystone XL Pipeline (despite tremendous economic benefits for the United States) illustrates the unlikely nature of any massive pipeline complex for transporting Canadian water.

Despite 100 years of cooperation in water management (the Boundary Waters Treaty between the United States and Canada marked its centennial in 2009), its success in dispute resolution and oversight of the chemical, physical, and biological integrity of the Great Lakes Basin ecosystem seems peripheral to many Canadians.

Otherwise rational Canadians rhapsodize over their water and have gone to considerable length to reinforce their laws continually to prevent any bulk export of Canadian water. Although exporting water in small plastic bottles was regarded as acceptable, that approach may also be eliminated given the current "green" criticism of "designer water." Of course the verbal exercise is also one of the arrows in the anti-Americanism quiver. For the NDP and acolytes of Maude Barlow and Mel Hurtig, if Canada has something, the United States must by definition covet it and seek to cheat Canadians out of it.

While barely a Canadian notices that Lake Winnipeg is one of the most polluted bodies of water on the continent, Canadians almost annually play frenzy games over the potential for an overflowing Devil's Lake in North Dakota to drain into the Red River system. Such drainage theoretically would create an "invasive species" problem. For years, U.S. proposals for comprehensive filtration systems were rejected as a rising Devil's Lake threatened more and more U.S. lakeshore property. Ostensibly resolved in 2005 with a $15 million filter system to address phantom concerns, this expensive "fix" at least prevented frustrated U.S. citizens from dynamiting barriers between the lake and a river to permit the necessary drainage.

The thought that the United States would require Canadian water exports was one of the arguments against ratifying the FTA and later the NAFTA accord. That nothing of the sort has eventuated for 20 years after the implementation of NAFTA, that Canadian lakes remain pristine, and rivers flow unsullied from sea to sea to sea, has not mitigated concern in the slightest. It is ideology, not logic that drives the critics' views.

The baseline reality is that all the NAFTA requires is that if—if— Canada decides upon bulk exports of water, such exports would also available to the United States.

More seriously, what is needed is a realistic North American appreciation of the best use of a renewable natural resource for the twenty-first century. Consequently, we need thoughtful, non-ideological review, study, and professional evaluation of these resources. For example:

- Was the sewage disposal process for the city of Victoria—sending sewage untreated out to sea—still appropriate for the twenty-first century? Will the proposal for $1 billion worth of treatment facilities be worth the expense? Or since, as of mid-2013, are all concerned still flailing about regarding timing, facility placement, etc. Will it ever get done?

- To what extent is Great Lakes water renewed by regular rainfall and incoming river flow? To what extent? How much of the lakes is "old" water, that is, not regularly replaced?
- At what point could St. Lawrence River water flowing to the Atlantic be diverted or used to fill super tankers? Is it really, however, a giant sewer the closer it gets to the Atlantic, with pollutants that make it unusable for human consumption? What about the waters flowing out to sea in all other areas of the Canadian coast line—the Arctic, as well as the Atlantic and Pacific?
- What are the respective U.S. and Canadian rights to respective percentages of the Great Lakes that share bilateral borders—Superior, Huron, Ontario, and Erie?
- What is the potential market for water, at what price, and in what sections of the world? We may come eventually to the point where water, if not at the price of oil, may be a highly attractive commercial commodity. Do we refuse to export it regardless of the price?
- Could the United States place a massive dam at the head of Lake Michigan (totally within U.S. borders), drain it to the last drop, send its waters south, and plant crops on the lake bed?

The essential point to this list of questions is the need for continental agreement on water conservation with accurate pricing for residential use versus agricultural use versus industrial use. Just as there is total lifetime costing for new products, our societies need a financial appreciation of the costs of municipal water delivery and sewage treatment. Water is not some mystic source of life to be discussed with dulcet tones of background music, but neither is it a cost-free good.

Goods and Services Tax

The Canadian national goods and services tax is an amazing phenomenon. It is desperately desired by those seeking to put another hand in the taxpayer's pocket and desperately deplored by said taxpayer. Canadians regularly suggest that the United States could solve its debt and deficit problems with a GST (and a hefty increase in taxes on gasoline).

In point of fact, the GST is uniquely Canadian and would be impossible to implement in the United States. Any member of Congress voting for it would face rebellion by constituents at the next election (and each member faces the voters every two years, hardly enough time for fury to abate). Even facing the vast deficits from recent and projected social welfare commitments, members of Congress were not seduced by the blandishments of massive new revenues (and the trial balloons by economists) to fund these expenses using a GST equivalent. On April 15, 2010, the U.S. Senate in a nonbinding 85-13 vote denounced the concept of a value added tax and "a massive tax increase that will cripple families on fixed income and only further push back America's economic recovery."

Indeed, if the GST were intended to destroy a political party, one would not expect its creators to use it to destroy their own party—but that was the result. The Tories implemented the GST in January 1991 as a replacement for the manufacturers sales tax, which at least for the public had the virtue of being hidden and buried within the total cost of the product. The Tories, however, in

a fit of masochistic intellectual purity, insisted that the tax should be clearly identified as something added to the cost of the product at the time of purchase. This approach resulted in the circumstance that every time you bought something taxable (there are a number of exceptions), you have an in-your-face slap of an additional 7 percent (on top of the provincial sales tax for most provinces) that frequently adds 15 percent to the original purchase price.

In the 1993 election, the Liberals excoriated the Tories for the tax at jackhammer decibel levels that resonated with most voters. While never saying so directly (and, to be sure, the party platform "Red Book" carefully circumscribed their position), the Liberals clearly gave the impression that they would eliminate the GST. Indeed, one of their shining lights, Sheila Copps, went over the line in promising its elimination—a commitment that ultimately prompted her to resign and run again successfully.

But lo and behold (surprise, surprise) having won election, the Liberals learned to love the GST. Although the tax was tweaked with exceptions for some products and paybacks for low income Canadians, it was retained. The GST simply generated too much money (as is the case for the "Employment Insurance" tax) for a government to surrender it.

Thus it was a delightful exercise in political one-upmanship to see the Conservatives, during the 2006 election commit specifically to reducing the GST by two points over two years and then implement these reductions when in power. Hoisted on their own petard, the Liberals were forced to defend what they had so vigorously assailed in the past and to belabor the Tories for reducing the tax. Indeed, the GST turned out to be the love child (or at least the beloved child) of a plethora of economists and commentators who stressed its utility for reducing unnecessary consumption and argued that any tax adjustments should made in income taxes.

Equally amusing was that during the 1993 election, nary an economist or journalist (Liberal-lovers as they were) had a good word to say for the GST. None defended the Tories for implementing it; and none offered any of counter-criticism for the Liberal criticism of its virtues. But if the scary Tories wanted to (and then did) reduce it, they are misguided in the eyes of the economists.

With massive revenue surpluses projected at more than $10 billion for 2008, the Conservatives obviously won their bet: voters liked the prospect of tax reductions. Tone-deaf politicians such as Liberal leader Stéphane Dion, who mused publicly in 2008 about restoring the GST to previous levels, must have had a genetic death wish (or been channeling former Tory Prime Minister Brian Mulroney). On the other hand, Dion's commitment to a "Green Shift" carbon tax suggested that he believed in the maxim of "Tax me, I'm Canadian."

Never giving up on a bad idea, the Liberals were forced during the Great Recession and during the 2011 election campaign to lament that if the Tories had not reduced taxes, the country would have had more funds to counter the drop in tax revenue. Of course this implies that the citizen's income is really the government's—and returning money to citizens is bureaucratically sinful. Instead, the reality is the likelihood that additional GST revenue would not have been "saved" by debt reduction but rather spent on "worthy" projects such as universal child care, which would have continued to be funded at even greater debt consequence during the Great Recession.

Moreover, to compound their problems, a number of provinces have "harmonized" (combined) the federal and provincial sales taxes. Ostensibly more bureaucratically efficient, taxpayers quickly figured out that most would be paying higher taxes. Voters in afflicted provinces (British Columbia and Ontario) battled back, seeking a chance to endorse (or reverse) a "harmony" that generates taxpayer discord. The October 2011 election in Ontario, in which the opposition Tories promised modification of the HST, resulted in a minority Liberal government not likely to change the HST. However, BC dissenters forced a referendum regarding the HST in August 2011 and "recalled" the HST, with the original tax structure resuming in April 2013. To know it is to loath it.

But for the United States, a national sales tax (perhaps in some adroit disguise) may be in our future also. It is the last deep pocket into which government has been unable to shove a hand.

The Price of Everything and the Value of Nothing

It is hard to build a case for waste. Not even those who are hip deep in the public trough benefiting from "earmarks" (in the U.S. system), or directed contracts artfully designed for uniquely qualified bidders, believe that they are cheating the system. After all, they too are taxpayers and thereby believe that the taxpayers are benefiting from their work.

In truth, certain services, until they are needed, are considered unnecessary expenses. Most obviously, the Canadian Armed Forces absorb considerable public funds to project force that many Canadians would argue doesn't require projection beyond the Arctic Circle. (Who *really* cares about the Afghans, let alone the Libyans, Malians, or Syrians?) Do you need firefighters until something valuable starts to burn? Emergency medical services until there is a medical emergency? Or expending funds for search and rescue operations for individuals foolish enough to put themselves deliberately in harm's way for their own sporting amusement? Is society to be taxed for the private benefit of individuals seeking an adrenaline rush?

Taxpayers in any society can ask serious questions about the need for many fiscal commitments, and citizens argue constantly over the appropriate distribution of their funds. Particularistic interests are part of politics, perhaps its essence.

But more largely, one can be puzzled over the constant green eye shade mentality about basic government expenses. What is the cost of an election? A criminal investigation? An investigatory commission? Travel within Canada by young diplomats?

It is hard to see the point of these apparently ritualistic questions. Whatever the expense, it is announced with dismay by the media. Never is a price tag published with a "This will be money well spent" conclusion.

Presumably Canadians want free and fair elections; if so, someone must pay for them. We assume that Canadians do not want a polling sample to determine leadership, regardless of the presumed accuracy of the pollster. Would Canadians prefer that elections be funded totally by private individuals with no government contributions? Or, conversely, that the government should prohibit all private

or nongovernmental funding and provide a severely limited amount of public funds to each candidate? But perhaps the cost of a democratic election run by honest officials who protect the legitimacy of each citizen's ballot is beyond price. Or if you think that freedom is expensive, investigate the costs of tyranny.

A subcategory of election expense is the ostensible horror regarding voter identification. In elections throughout the world—honest elections that is—the value of a rather small number of votes has repeatedly been demonstrated. Think 1995 Quebec referendum. Think Florida 2000 presidential election. In each of these events, the shift of a relatively tiny number of votes would quite literally have changed history. Yet Canadians, who appear innately hostile to clear, verifiable voter identification with explanations that boggle the imagination imply that they would rather put the integrity of their elections at risk than to inconvenience an individual voter. The suggestion that voters would be intimidated by having to verify their identity is an insult to Canadian voters—we have seen media reporting where citizens of foreign lands braved gunfire and explosive attacks to register their vote. Are Canadians so pusillanimous that encountering the standard polite Elections Canada official is more intimidating? Is asking for identification to vote more privacy intrusive than a search at an airport? Or is it really that each political party expects to be able to cheat more effectively by manipulating election voter lists than their opponents, and thus has a vested interest in exploitable errors? Do more of the dead vote Tory than Liberal—or vice versa?

What is it about the cost of an investigation or public inquiry that is so bothersome? Repeatedly, during the Gomery investigation of the sponsorship imbroglio, one could read media commentary to the effect that the cost of the commission would be greater than the funds misappropriated. Or that the various investigations and parliamentary probes of the Mulroney-Schreiber relationship were disproportionately expensive. Or that the money expended on the protracted Air India bombing investigation and trial was excessive. And doubtless the costs of Quebec's long-running Charbonneau Commission will come into question. But these reactions beg the basic question: what is the value of justice? Do Canadians want no investigations at a cost greater than the presumed losses from alleged criminal action? Isn't the question really one of investigatory competence rather than cost? Perhaps purchasing political favors is expensive—and not done by exchanges of currency at noon in front of the Peace Tower as witnessed by TV cameras—and therefore necessitates detailed review by skilled actuaries of those records carefully designed either not to exist or to obfuscate evidence of bribery or misappropriation of funds.

And then there was the 2009 kerfuffle over funding newly minted Canadian diplomats for orientation travel in Canada. The intimation was that only those who already had such experience should become diplomats. How "penny wise" can one be? Limiting a diplomatic career to those with the money to travel when young would restrict the diplomatic corps to the well-to-do (and sending diplomats abroad with little on-the-ground appreciation of their country reduces their effectiveness).

The classic definition of a cynic is someone who knows the price of everything and the value of nothing. In this regard, sometimes the words "Canadian" and "cynic" appear interchangeable.

14 CONCLUSION: TELLING THE TRUTH IS NEVER EASY

Telling truth to weakness can be as difficult as telling truth to power.

It is tedious and often self-defeating to attempt to tell the weak why they are so. Or to tell them that their weaknesses and errors are damaging their relationships with others, strong and weak alike. It is even harder to induce them to "understand" and accept the validity of the views of the strong. Instead, the weak tend to assume that weakness is equivalent to virtue (and strength equivalent to vice). Trying to convince the weak to get up off the politico-military equivalent of a reclining couch and take action to become stronger—at least a little stronger—is not for the easily discouraged. The weak are defensive, angry, and often delusional about the causes and consequences of their weakness. They may know that they are weak—and even regret it—but rationalize their weakness away with denial.

They are as unwilling to accept guidance as an adult child is unwilling to accept criticism, counsel, or direction from a parent. Since recommended action often is not taken (even when one dares to proffer it) and long experience has illustrated this rejectionist attitude, consequently, such advice is often not given.

Honest give-and-take of this sort is an element of the U.S.-Canadian bilateral relationship that has been particularly lacking.

This breakdown may be inadvertent; based on an assumption that the easily congenial relationship of the past has persisted into the present and is a prologue for the future. Indeed, it is a result of a relationship implicitly based in the misapprehension that "you're just like us." While "just like us" has many points of validity for Canadians and Americans, the similarities can conceal as much as they reveal. The resulting benign neglect is still neglect, and the neglected are seldom grateful for indifference from others. Moreover, neglect renders the neglected unlikely to adjust their thinking or their actions.

Sometimes the neglected are irritated over the neglect, thinking that the United States

"takes them for granted." In reality, Canadians should feel grateful that circumstances have been sufficiently tranquil to warrant benign neglect. Few countries have been "happier" following intense U.S. involvement in their affairs, regardless of whether that involvement was aimed at ridding them of a brutal military conflict or due to a social or economic disaster leaving the country in ruins. Also, Canadians have taken the relatively placid U.S. attitude toward their country somewhat as a given. Historically, however, it is rare that a relationship between a weak, rich country and a strong, powerful neighbor has ended with the weak member of the pair not only retaining its independence and wealth, but also paid fulsomely for its products, and defended at no cost to its citizens.

In fact, Canadians should offer a nightly prayer (in both official languages) for their southern neighbor. Indeed, Brian Mulroney is attributed as having said that he awakened every morning thanking God for living next to the United States (and linked it with the suggestion that the United States should offer similar thanks for Canada). Somehow one doubts that either Canadians or Americans adhere to Mulroney's advice.

The most senior elements of U.S. leadership have been otherwise engaged throughout most of modern history. They were addressing the existential struggles of World War II and the Cold War, mounting various military expeditions (reflecting badly or well on U.S. perceptions of its national interest); and, post-9/11, attempting to understand, counter, and defeat Islamic-directed terrorism without devolving the effort into a war against Muslims everywhere. Simultaneously, during the Great Recession, U.S. leaders struggled with existential domestic differences that have hamstrung decision-making regarding the extent of social services and government expenditure versus the level of taxation and debt. Bilateral relations with Canada have not been a primary priority; "sorry about that."

It is clear that the majority of Canadians does not agree with current U.S. perceptions of the international threat and distinctly disagree with many of the economic, social, political, and military approaches fostered by U.S. perceptions of reality. Indeed, when a contemporary poll revealed that approximately 60 percent of Canadians believed the United States was a greater threat to peace than Iran, the relationship had moved from neighborly disagreement into ritualized animosity—regardless of what official position the government might adopt. So you want Iranians as your neighbor(u)rs? Or North Koreans, perhaps?

At the same time, Canada's relative success in avoiding the exigencies of the Great Recession generated a level of popular arrogance regarding the perceived U.S. failures in this regard. "See," Ottawa says, "you need to listen to us and learn from our example." A bit of Canadian puffery was predictable, but there is a touch of the fable regarding the bullfrog attempting to inflate itself to the size of the bull. And that attitude was more likely to lead to Canadian comeuppance than American emulation. Indeed, given recent (mid-2013 statistics), "America is back." Bluntly one doubts that the twenty-first will be any more Canada's century than was the twentieth.

The vague congeniality between border area citizens and their longstanding amicable personal relationships buffer what seems to be a growing underlying distaste verging on aversion. A U.S. citizen can regret this

circumstance (and even rationalize it as the lingering consequence of visceral hatred for President George W. Bush), but there seems more glee than regret over U.S. problems, an all but reflexive *schadenfreude* when a U.S. policy fails or flails. Indeed, one remembers an axiom from boyhood that "the greatest joy is the malicious joy one takes from the misfortunes of those you have envied."

That Canada lacks the capacity to be a direct threat to the United States is of minimal comfort to Washington. Unfortunately, it does not lack for opportunities to be a neutral or negative actor either bilaterally or multilaterally. Ottawa is clearly conscious of the old British axiom of having neither eternal friends nor eternal enemies but having eternal interests. Consequently, our areas of bilateral concord are primarily those in which Canada's self-interest is the driver. The T-shirt motto distributed by the Canadian embassy ("Got your back") generates more concern rather than comfort: should the United States worry about Canada plunging its tiny dagger into an exposed area at a time of its convenience?

Best Friends, Like It or Not

The description of our bilateral national relations, reportedly crafted by a Canadian, that we are "best friends, like it or not" has the codicil that in much recent history "we were definitely in a *not* portion of the cycle." It has been more a "Cold Peace" than a Cold War following the changing of the guard in Washington in January 2009, but it would be a mistake to accept absence of active animosity as an attitude of amicable accommodation.

At best, Canada offered a modest respite under the Conservative minority government that took power in January 2006 and retained power as a minority for more than five years during the conceptual development of many of these foregoing analyses. It had limited political leeway domestically and attempted to avoid confrontation (at ever rising domestic political cost) over specific issues. We have yet to see how the implementation of a majority Tory government following the May 2011 election will fully evolve. And in mid-2013, the Tories may already be focusing on the fight of their lives to win the 2015 election against both resurgent Liberals and hard-charging New Democrats. Consequently, both countries appear more to be nibbling around the edges of problems rather than vigorously engaging them. But whatever evolves, it will be something different in our bilateral relations; certainly different from the last Tory majority that ended in 1993.

The primary positive of the Tory minority (and now majority) is that there is less gratuitous manure-throwing just to see the cow pies splatter. When the U.S. Embassy in Ottawa opens its doors each working day, it doesn't have to shovel away the odor of the day. Thus, Washington endures the ritualized shin kicks, e.g., proclamations of Canadian sovereignty over the Northwest Passage. The United States rejects this claim clearly but does not belabor it; accepting Canadian sovereignty over the international waters of the Northwest Passage simply will not happen. Period.

Likewise, the United States endures the whinging over the alleged vicissitudes associated with enhanced border security and the tiresome Canadian indifference to U.S. concerns over protecting U.S. military forces and maximizing their combat effectiveness. Ottawa's May 2008 endorsement of the fatuous cluster bomb treaty (while

hypocritically carving out an exception allowing its forces to be protected by U.S. forces using these weapons) is only one such action. That Ottawa touts its sponsorship of the antipersonnel mine treaty and the International Criminal Court, each of which would distinctly endanger and limit the U.S. armed forces and leave U.S. officials at risk from ideologically driven judges throughout the globe, reflects the trivial navel-gazing nature of Canadian diplomacy rather than its principled virtue. One is no longer amazed that others desire our soldiers die to accord with their principles—especially when they have no equity in the issue, but it doesn't reduce our contempt for their self-righteous nattering.

One is amused by Amnesty International's charge in October 2011 that Canada should arrest and prosecute former president George W. Bush for "war crimes and torture." That Canadians seriously debated the issue illustrated how unserious the society remains. So far as war crimes are concerned, individuals such as Major General Lewis MacKenzie (in the former Yugoslavia) and Lieutenant-General Roméo Dallaire (in Rwanda) could be subjected to such charges. Eventually, Canada will experience efforts to put this shoe on its foot (i.e., the investigation of the 2011 Canadian military action against Libya) and see how it pinches their virtue.

But we do not expect appreciation, let alone public recognition, for the many elements of our bilateral relationship that go smoothly and to Canada's benefit. If 95 percent of our massive trade relationship is untroubled, then Canada focuses on any element that is not evolving to its pleasure. Thus there is no recognition that the United States accepts Canadian beef imports despite the regular reports that "mad cow" disease persists in Canadian herds—and that the consequent international perception of "mad cow" infection in U.S. herds largely destroyed our Asian beef export market. Indeed, at one point, it so badly damaged our relations with South Korea that riots over presumably infected (but perfectly safe) U.S. beef almost brought down a pro-U.S. government. (Canada, of course, paid no attention to its responsibility for this contretemps.)

Likewise, there is no appreciation that softwood lumber has been a troubled export for more than a century and that the core of the problem is a systemic difference in how public and private forests are managed in Canada and the United States. If Canada really believed the United States is as unfair as its rhetoric proclaims, it could keep the lumber at home or sell it elsewhere.

Indeed, one would be hard pressed to find *any* example in Canadian media in which U.S. foreign policy is viewed positively or our economy or society are not depicted as in some manner threatening to Canadian (or global) interests. We don't progress beyond the "even a blind pig finds an occasional acorn" level of being accorded credit—if that. One might think that it reflects Ottawa's parliamentary attitudes on an international level: the United States is the "government" and Canada is the "Official Opposition"—and the role of the opposition is simply to oppose. And when an opposition has no near-term chance of becoming the government (think NDP, Liberals, and greens), it has no incentive to be responsible. Canada has as much chance of being a global power as the Greens have of governing the country.

Consequently, the United States has not again advanced the baseline proposal for

continental missile defense, a set of systems, radars, and missiles that testing indicates is steadily more effective. During their minority reign, we did not ask the Tories to contemplate political suicide by endorsing the no-cost proposal that the Liberals ultimately spurned; even a free gift was too expensive for them and equally costly for Conservatives to contemplate. Nor are we likely to approach the majority Tories, having determined that we can pretty much do what we require without Canadian participation. The semi-psychotic ballistic missile blustering of Pyongyang's Kim Jong-un has justified U.S. concerns, but not prompted any new approach to Ottawa. And if Canadian fears rise over prospective North Korean ICBMs, it will be up to Ottawa to come to us hat in hand. Nevertheless, we are not so ungracious as to suggest that since the Canadians reject participating in such continental defense, they should state (and we can conclude) that we should not defend them if a rogue missile heads for Vancouver. Eating your cake (by rejecting a nefarious U.S. proposal) and having it too (implicit expectation of U.S. defense in such emergency) is characteristically Canadian.

A continued Tory government will generate a "more of the same" bilateral outcome, regardless of which party is in power in Washington. The 2011 Conservative majority victory was a brilliant technical triumph combining political (Tory) competence against (Liberal) incompetence against a backdrop of economic uncertainty. It is a solid rather than massive majority and may be a "one off" victory given the ideological appreciation that approximately two-thirds of the Canadian electorate lies to the left of center in the political spectrum. In light of this bent, the "Conservatives" are conservative only in Canadian terms and thus limited in truly "conservative" action that they might undertake. This political reality means that U.S. security concerns in international relations may prompt quiet sympathy of the "all support short of real assistance" nature, but little more, particularly if U.S. action is taken without the UN's blessing. Conservatives will be as nationalistic as Liberals regarding their particularistic economic and border security problems, if only to defend their left flank and to satisfy their business and economic backers.

All concerned can hope that Quebec and quiescent remain coterminous.

Learn to Love the Liberals or NDP-Liberals?

The shrill expectations from left-leaning media that sooner or later the "natural governing party" of Liberals or some new, upgraded, combined edition of such will return to power, provides a clear cautionary note for U.S. analysts—of whatever political coloration holding power in Washington. Without question, the Opposition will return to power; rotation of parties in power is the natural circumstance in democracies (Alberta aside), and professionals recognize that the moment of electoral victory is the first step on the road to ultimate electoral defeat. Parties wear down; leaders begin to bore rather than inspire electorates. The corrupt (and there are always some) become blatantly corrupt or create a drip, drip effect of trivial "hangnail" scandal that the Opposition can tout as gangrene requiring amputation. And a government, regardless of how ostensibly secure and adroit its management, is always at the mercy of "events" that offer the Opposition the chance to "seize the day"

and win a defining election (which always comes at the wrong time). If one doubts such a projection, consider the fate of the post-sponsorship scandal Liberals, who transformed a "Liberals as far as the eye can see" political landscape into an electoral wasteland over the course of four elections.

Sometimes changes improve the optics of relationship; sometimes they improve the substance. U.S. bilateral relations improved with France under a Sarkozy government; also with Germany (Merkel), South Korea (Lee and Park), and with Italy (Berlusconi). But these are "conservatives." And already our relations with a France under Hollande have cooled. We cannot expect to benefit comparably from a revived Canadian Liberal or NDP or united Left victory. The normal circumstance for Liberals in power is that they pursue the worst possible relations with the United States that will not result in direct retaliation. Consequently, preparing for an Opposition government—whether in 2015 or (many) years down the road—is a useful intellectual exercise. No matter how well one has "gamed" a change in national leadership, there are always surprises; however, it is possible to reduce the intensity and number of these unpleasant unexpecteds. There will always be "unknown unknowns"—but at least reviewing the "knowns" is useful.

Liberal Domestic Policy

Certainly any Canadian government, Liberal, NDP, or Conservative, will be conditioned by the state of the economy. If the 2008 downturn, now labeled by economists as The Great Recession, ends without serious, long-term consequences, the Tories likely will be able to prolong their 2011 victory into another mandate in 2015. But Conservative success is not foreordained, so some bidding review is useful.

In mid-2008, Canada was enjoying close to the "best of times." Federal and provincial budgets were in surplus, overall debt was declining. Inflation and interest rates were steady and low; unemployment was at virtually record lows. Taxes were being cut, but government expenditures were up. Exports were strong; the market for Canadian energy appeared limitless. The value of the Canadian dollar was at a generational high-water mark.

The national unity issue was at low ebb. Certainly these were "to die for" days for any government. The summer of 2013 was very good, if not at 2008 standards. What the economy will resemble when the Opposition eventually gains power probably will not be so glorious, but if 2013 projections are correct, Canada will have a solid, productive, sophisticated economy even if a new recession eventuates.

It would be snide—and inaccurate—to suggest that the Opposition or the Liberals would transform this silk purse into sows' ears. A "Green Shift" entailing some variant of a carbon tax, if implemented, will provide serious challenges for the Canadian economy; the suggestion that it would be revenue neutral continues to raise eyebrows. The elements of such a proposal, whether it be "cap and trade" or some other environmentally correct device with its focus on disproportionate "soak the rich" taxes for Alberta, hold the seeds for renewed and accentuated Western alienation.

To be sure, circumstances will differ depending on which opposition party wins an outright majority or might govern, for example, in a coalition. Their domestic choices regarding taxation, expenditure, social

services (health care, education, and civil rights), energy expenditure, environmental regulations, infrastructure investment, and many other topics are for Canadians to enjoy—or endure. Also, without belaboring the point, the economic recovery in the United States has struggled and is still some distance from pre-recession dynamics, but ultimately, Canadian economic progress is tightly tied to U.S. economic success. (Still, from the constant carping by Canadian media, one would think that the United States deliberately created the post-9/11 defense-security environment to justify massive deficit spending and prompted the Great Recession simply to discomfit Canadian export industries).

On many other topics, however, a Liberal or NDP government's decisions may have foreign affairs consequences for bilateral relations. These include:

NAFTA and "Free Trade"

Liberals, particularly their nationalistic, NDP-leaning elements, are essentially skeptical of free trade, both in its original FTA and its subsequent NAFTA editions. It suffers from the "NIH" ("not invented here") syndrome, as free trade is a Tory rather than a Liberal concept. If business likes it (and labor doesn't), there must be something wrong. If all of the prescient predictions of doom in 1988 and again in 1993 (end of Canadian health care, submerged Canadian culture, commercial high-volume water sales) have not eventuated, it is because of the critics' vigilant fulminations prevented them—not because their criticisms were wrong in every particular. And if bilateral trade increased under NAFTA, it would have anyway—with or without the FTA or NAFTA—and now lost Canadian manufacturing jobs are the real consequence of NAFTA.

Consequently, the Liberals and the NDP would not be at all unhappy to see NAFTA "reopened," whether by a U.S. administration boxed into and driven by election-year Democratic Party promises or by their own electoral victory. They have reached the point where the agreement's virtues are taken for granted, such as attitudes toward public utilities: pure water and regular electricity are givens and only the costs are discussed. Thus the Bush administration suggestions for further harmonization in the Security and Prosperity Partnership were viewed with great skepticism; and the Obama administration variants did not attract much support by Opposition politicians. The benefits of free trade are societal in their dimensions and without partisan support; the liabilities, notably job losses in specific industries and communities, are individually inflicted and those doing the suffering are politically potent voters—particularly among those voters who may support the Liberals or the NDP. Every closed factory is a consequence of exterior (U.S./NAFTA) malicious evil, not uncompetitive productivity.

It is less clear what the Liberals and the NDP want than what they don't, but the essence appears to be less U.S. presence in Canada in the form of U.S. business ownership and greater Canadian freedom to cut off trade in areas that would specifically disadvantage the United States, such as energy sales. They would also want free trade in lumber, eliminating the convoluted softwood disputes and mandatory arbitration and dispute resolution. And if renegotiation fails, the Liberals have an ironclad reaction—blame the United States for recalcitrance and arrogance. By definition we can never be correct.

Energy Policy and Climate Change

Nobody south of the border should forget the Trudeau-era National Energy Program. This program effectively ended Alberta's first energy boom and subordinated western Canadian and Alberta interests to those of Ontario and Quebec. It cost the Liberals any significant representation in Alberta for a generation; however, having had nothing to lose in the province for a generation, the Liberals can turn Alberta into a whipping boy (or a goose ready for ROC roasting) without turning a feather.

The degree to which the Liberals continue to float "carbon tax" type proposals, as epitomized in the Green Shift; or tinker with "cap and trade" proposals, which they also endorse; or suggest they would oppose pipelines from Alberta to the Pacific coast and are implicitly hostile to the Keystone XL and Energy East pipelines; reflects that they have no constituency in Alberta and minimal support in other energy-exporting provinces. The NDP adopts the same attitude with the environmental twist that "tar sands" projects damage "Gaia." As responding to "global warming and climate change" is the pet rock of the decade, politicians seek devices to most benefit themselves and their constituencies. There is an old political saw about taxation that goes, "Don't tax me; don't tax thee; tax that guy behind the tree," in other words, the group(s) not in your perceived circle of support ("the rich" or "big business" or "oil barons"). For the Liberals and the NDP, oil companies and Albertans are "behind the tree."

Coincidentally, the still-embryonic Energy East proposal to build a massive east-west pipeline across Canada both to benefit eastern Canada interests and provide options for energy exports to Asia is problematic. If pandering to environmentalists doesn't scuttle the concept, it is a fascinating national unity project akin to trans-Canada rail or highway systems for a nation in which north-south linkages with the United States markets are often more prominent.

A Liberal could conceive of such a project—funded by a "carbon tax" that would both lessen Canadian dependence on the U.S. market and generate construction jobs outside of Alberta's oil sands. It would be a useful distraction from scuttling the Keystone XL Pipeline (or even a clever complement to building KXL for which the Liberals and the NDP could take credit).

Simultaneously, the Liberals and the NDP could limit U.S. investment in and ownership and control of Alberta energy projects.

Placing further environmental or political constraints in the construction of any pipeline south of the Arctic would probably kill the project. Keystone XL Pipeline authorization decisions, despite ostensible decisions in 2014, will be fought in court and thus will remain in question for years. The Opposition would delight in giving the United States a "one in your eye"—and providing the environmental and conservation lobby a thrill—by forcing the suspension of such projects.

Concurrently, a Liberal or NDP government could assure that a major natural gas pipeline, such as the Mackenzie Valley Pipeline to move gas from the Beaufort Sea to Alberta, does not happen.

A Liberal Foreign Policy

But while domestic policy can have foreign policy consequences, it is even more

important to examine prospective Opposition foreign policy directions. Although it may be blithe and with the intimation that the NDP will never exercise power, we will take as a premise that an NDP government will act as Liberals-in-a-hurry so far as foreign policy is concerned.

In that regard, the policy papers from the 2006 Liberal leadership convention still are useful guidelines. While such papers are invariably ephemeral and subject to "where you sit is where you stand" revisionism once their issuers assume power, they are nonetheless indicative of attitudes that will condition policy. From these and other sources, such as former Prime Minister Chrétien's March 2013 speech, we might hypothesize the following elements of a Liberal foreign policy:

Peacekeeping

Occasionally the Liberals project the air that they (channeling Lester Pearson *en passant*) invented peacekeeping. During the Cold War, it was useful to nod in Canada's direction in this regard; recognizing that there were instances when Canadian forces were more acceptable in certain disputes, (e.g., Cyprus) than U.S. or Soviet troops would be. Peacekeeping was a niche market matching Canada's niche capabilities.

The countervailing point, however, was always that "peacekeepers" were not civilians in uniforms. One U.S. Army chief of staff noted that "first, a peacekeeper had to be a good soldier." The primary requirement was combat effectiveness, not social worker or labor conciliator skills. But in the light-housekeeping type of peacekeeping done before the end of the Cold War, this reality was lost in Canada. Since the end of the Cold War, "peacekeeping" has become "peacemaking" in reality—whatever the label may be on the military package. But peacemaking is not cheap.

Recently, following Canadian participation in air action against the Gadhafi Libyan government, prominent Liberals such as Lloyd Axworthy and Allan Rock touted "Responsibility to Protect" (R2P) as the proposed paradigm for Canadian foreign policy. Where such would lead, other than token participation in UN or NATO authorized action, is unknown.

In truth, while defense (along with diplomacy and development) is one of the legs of any foreign affairs tripod, the Liberal constant on defense has been lip service rather than real service. It reflects the popular Canadian modern myth to the effect that they do good works (peacekeeping) while other less virtuous states (read United States) do War Making.

Would that it were otherwise; were it obvious that Liberals were strong on defense, former Canadian Forces (CF) Chief of the Defense Staff General Rick Hillier's observation that the Liberal government's regime had been a "decade of darkness" for Canadian defense would not have prompted such fury by the Liberal defense critic of the time. After all, the Montreal Liberal Convention resolution on peacekeeping in December 2006 admitted the "…funding decline of the 1990s, which led to rusted out equipment and a shortage of personnel." Instead, a likely Liberal foreign policy would be "defense lite" and no one—in or out of NATO—should expect Liberals to support combat operations outside UN endorsement absent a Klingon invasion of the North American continent.

Indeed, it would not be a betting man's risk that the 20-year plan envisioned in the baseline 2008 Canada First Defense Strategy

would be implemented in a Liberal or an NDP government. More likely would be the charge that various projected equipment purchases were for "gold-plated Cadillac" machines—and then cancelled. Such would be a re-do of the Liberal attack on and subsequent cancellation after their 1993 election victory of an EH-101 helicopter purchase. That the contract cancellation cost $500 million; and that it had to be redone a decade later was no matter. Even the most myopic can see the harbinger of such policy in the Liberals constant denunciations of the costs of a projected F-35 purchase and trumpeted warning that it will be reviewed when Liberals gain power; this is the real story of Liberal defense policy. Should Liberals or the New Democrats come to power in the 2015 election, one could easily project a radical restructuring of such commitments.

Afghanistan

Canadians remain deeply ambivalent about their participation at other than a "boy scout" level in Afghanistan. It is an unknown country, far away from Canada without a significant representation among Canada's hyphenated-ethnic minorities and pressure groups at home to beat the drum for Canadian involvement. Moreover, while the U.S. population clearly remembers that the 9/11 terrorists were trained in al-Qaeda camps protected by the Taliban regime, Canadians have no such visceral touchstone. Hence, despite pleas from feminists on behalf of Afghani women and those who want children to be able to fly kites in Kabul, participation with other NATO members in military stabilization, even with a UN mandate to do so, was an abstraction. Yes, UN-NATO participation had a feel-good abstraction, but body bags were concrete facts and the polls were blunt: Canadian support declined when casualties rose. Consequently, Canadians were delighted at the all-parties agreement at the beginning of 2008 that committed Ottawa to withdraw forces in 2011. The subsequent recalibration of the CF presence after mid-2011, to eliminate a combat role and focus solely on military and security force training, was the maximum that one could expect from Ottawa—and even persisting in the 2014 withdrawal deadline would be questionable if a military catastrophe resulted in significant casualties among trainers.

To be blunt, there were few U.S. officials who would have bet their pensions on continued Canadian military participation in Afghanistan under a Liberal or NDP government. The Liberal-Tory commitment in February 2008 to remain in Afghanistan until 2011 had a "fingers crossed behind the back" sense to it when made. Happily for Canadians, the U.S. force surge pushed the CF out of the line of fire; for the final year of their ostensible combat commitment, Canadians were killed more by accident than purposefully. The current training role should be almost as safe as garrison duty in Germany or Fort Wainwright.

The essential puzzle is how a country that has lost approximately 150 military personnel over 10 years will be able to sustain any foreign commitment involving tombstones or body bags. The costs of the Afghan commitment would not have been weekly wastage in any previous war—and all involved were volunteers. (As a point of comparison, there were 598 homicides in Canada during 2011.)

Middle East

A Liberal or NDP government will be more "Canadian traditional." That is, such a government would manifest a less perceived

tilt to Israel. It would be far more willing to support Palestinian and Lebanese (but not Hamas or Hezbollah) views that they are at least as much sinned against as sinning regarding regional conflict. The Tory government did not condemn Israeli action in May 2010 against the "peace flotilla" headed to Gaza, nor did it criticize Israeli West Bank housing policy in 2011; a Liberal or NDP government would not have hesitated to do so. Moreover, Foreign Minister John Baird made nice with senior Israeli leadership while visiting Jerusalem and Tel Aviv in April 2013, and created a flap by meeting with the justice minister in East Jerusalem. Thus any renewed fighting on the Lebanese-Israel border or dramatic Israeli action in Gaza would prompt a Liberal cry for immediate ceasefire—particularly by Israel, but not from the government. It is also a not politically correct, but not irrelevant political calculation that the Islamic-Canadian voting bloc is now larger than the Jewish-Canadian contingent—and money is less important in Canadian than in U.S. politics. For the United States, support of Israel is simply "right" by definition and campaign funds are irrelevant.

Relations with the United States

Minimalism in the U.S.-Canada relationship will be the guideline even with Washington's reelected Obama administration. Thus we could anticipate resumed criticism along the lines of the Chrétien-Martin government regarding virtually every element of U.S. foreign policy: global warming and climate change, Iraq, Iran, North Korea, the Middle East, missile defense, arms control, the role of the UN and the International Criminal Court, etc. Such would have been particularly pointed with a President John McCain or a President Mitt Romney; whereas President Obama has enjoyed a honeymoon across the Canadian political spectrum (and in mid-2013 was more popular in Canada than in the United States). The exigencies of U.S. foreign policy are more likely to generate Liberal brickbats than bouquets in short order.

On topics where U.S. and Canadian objectives might align, e.g., a non-nuclear Iran, a denuclearized North Korea, or a two-state Palestine-Israel solution, a Liberal or NDP government in Ottawa would be sure to insist that diplomacy—under the aegis of the United Nations—is the only route to follow. And also there would be a push for the United States to engage diplomatically with North Korea, Iran, Syria, and—of course—recognize Castro's Cuba.

As for our direct bilateral relations, one would expect reluctance at best on those difficult topics that never go away. There will never be a "yes"; it will at best be "yes, but"—with emphasis on the "but," as in:

- Secure borders? Postpone any implementation of a reliably secure personal identification document as long as possible by arguing that it is technologically immature, too expensive, privacy invasive, and really just reflects U.S. paranoia when we should merely be neurotic. The elements of the 2011 perimeter security agreement would be denounced as impinging on Canadian sovereignty—and wildly expensive to boot. The essential hope is that sufficient delay will make it all go away (the unspoken fear is that anything untoward that happens could be traced to Canada). The Liberals and the New Democrats are more concerned over Canadians inconvenienced at border crossings than concerned over the safety of the United States. If the Liberals and the NDP are not disconcerted over the 2006 Toronto 17 terrorist group planning or

the 2013 effort to bomb the Via rail Toronto-to-New York City train, they are beyond convincing.

- Incarcerated terrorists? Attitudes by the Liberals and the NDP toward Omar Khadr was that his rights were violated by being held at Guantánamo, and that the trial at which he pleaded guilty was unfair, and by connotations that he has been tortured or that anything less than due process Canada-style is the moral equivalent of torture. His return from durance vile in the United States has provided him the equivalent of Order of Canada honors; the objective will be his quick release from whatever Club Fed prison where he may be serving his residual sentence and a lucrative book contract and speaking tour. The widow and orphaned children of Khadr's victim will always be irrelevant.

Retrospectively reviewing the Maher Arar case, the Liberals and the NDP would suggest that the only time former Public Safety Minister Stockwell Day was right about anything was when he rejected U.S. evidence excluding Maher Arar from entry to the United States. They would ignore any results from activities such as a Canadian connection with prospective British terrorists, or the criminal convictions of the "Toronto 17" (other than a chuckle over a vision of a headless Harper had the "17" plans succeeded).

Conclusion

The essential problem for a Liberal or NDP foreign policy is that there is less and less with which to connect it with the United States. It is hard to imagine a U.S. foreign policy, whether directed by the bluest Democrat or the reddest Republican, that would be less supportive of Israel, affectionately embrace UN objectives and the International Criminal Court and land mine treaty, ratify Kyoto and implement "cap and trade," terminate the missile defense program, accept the Iranian and North Korean nuclear programs, or relent in the effort to foil terrorism. The Obama administration is for all practical purposes as committed to these verities as was the Bush administration. The elimination of U.S. combat forces in Iraq at the end of 2011 still leaves behind substantial U.S. military power (wearing "civvies" as contract training personnel) to defend our interests in the country and separately deployed elsewhere in the region (for example, in Kuwait). To a similar degree, nation building in Afghanistan may be a generation-long task. It will be bloody and brutal—with the chattering classes baying for defeat—but will end with circumstances that can be judged as satisfactory, albeit not "victorious," for NATO Coalition forces.

Added to these problems are, *inter alia,* a revanchist Russia, a self-assertive China with unrequited interest in regaining Taiwan and performing pushy naval activity ratcheting up obscure territorial disputes, an "Arab Spring" that is more likely to become an Islamic deep freeze with a wilted a garden of democratic blooms, an Indian-Pakistani interlock of bottled scorpions, and various Latin American states that have decided that Venezuela has the formula for the future. None of these problems looks amenable to the soft power solutions so beloved by Liberal and NDP true believers.

This leaves areas for relevant and useful cooperation with a Liberal or NDP government decidedly limited.

So What Do We Do?

The easy course would be to do nothing. With all of the problems cited above for the United States, both domestic and external, decanting another can clearly marked "worms, species Canadian" will take more fortitude than the bilateral norm.

Nevertheless, essentially we need more confrontation and less avoidance. Not all sleeping dogs should be left to lie; eventually, they start to clutter up the porch with all involved more concerned with tripping over them than addressing the reasons why they are lying there asleep in the first place.

Starting with Boundaries

Good fences do make for happier neighbors. It is not as if there are Alsace-Lorraine-category problems with Canada (or an equivalent of Mexican irredentist claims over the U.S. Southwest and California). But there are missing pickets, sagging posts, need-a-coat-of-paint requirements that are not being mitigated by ignoring them. It matters less how these longstanding issues are addressed than that they *be* addressed: coin toss, direct negotiations (sequential or as a package), formal legal arbitration, Hague international court, or some individualized mix-and-match approach. Some appear trivial on their face (Machias Seal Island), others look as if they were left-overs that slipped through the crack after a 2:00 a.m. end to negotiations; still others (Beaufort Sea) now are becoming more pointed with prospective oil reserves in play. But the essence remains: get them out of the diplomatic file folders and get them resolved.

An ancillary but prominent issue is the Northwest Passage. Canadians have spent a generation fabricating hopes, dreams, and convoluted rationales for securing legal sovereign control over these international waters. Ottawa, like it or not, should stop deluding itself. The United States does not and will not accept Canada's claim to sovereignty over these waters. No country accepts Ottawa's contention for sovereignty over the passage. The United States would gain nothing by ceding its rights under international law to free passage—and would place its current naval military operational flexibility at risk to the vagaries of Canadian political exigencies. It really doesn't matter what Canada might "promise"—if it held sovereignty over these waters, it could cancel any agreement in a heartbeat or create delays in the right of passage, regardless of whether they stem from concern over radioactive pollution of the environment from nuclear-powered warships or disturbance to mating beluga whales.

Border Control

The United States and Canada simply must have greater confidence that the border is as impermeable as law, technology, and official effort by trained personnel can make it. This is a movement northward problem, not just a travel southward issue, but it is a real problem and regular, little-reported incidents make a pointed statement. However, they are ignored in mass media because they haven't become a "12/12" or something comparable. Whether or not Canadians believe that Uncle Sam is psychotic over security when he should just be paranoid, they need to cater to his condition. The last circumstance that Canadians should desire is that a "12/12" be traced to terrorist bases in Canada. We will be looking for scapegoats, and Ottawa needs to be able to demonstrate that it made every

effort to put "belt and suspenders" on every security problem.

We can hope that the 2011 "Beyond the Border" agreement will eventually "thin" our thickening border with better intelligence sharing and bureaucratic coordination. We can hope. But it is just as likely that unknown unknowns will lead both to insignificant improvement and continued frustration, rather than a positive outcome. Life along the border will never again be as it was on 9/10/2001—Canadians have to grin and bear this reality.

Coincidentally, every Canadian media story over how beastly we are to nice boys such as Omar Khadr and how put-upon Canadian travelers are in dealing with U.S. Gestapo-style border security will be battened upon by U.S. critics as evidence that Canadians are essentially indifferent (beyond lip service) to U.S. security.

A corollary issue becomes that of immigration and refugees. Both Canada and the United States are nations of immigrants; the similarity largely ends at this point. The United States, plagued by a porous southern border, has who-knows-how-many illegal immigrants. Although prospectively much more manageable, Canada has created a growing problem for itself—and for the United States—by allowing illegal immigrants a wide range of social and legal services while claiming to be refugees who fight against deportation. The result is that tens of thousands of such individuals have disappeared and may well pose a security problem for the United States as well as for Canada. For its part, Canada largely ignores those who flout deportation or departure orders—assuming that they have slipped into the United States and can be forgotten by Ottawa.

Canadian Military

The Canadian Armed Forces spent most of the past 50 years in steady, well-documented decline. Although there have been periodic efforts to get the "couch potato" into at least a light exercise routine (and the current Canada First Defense Strategy is such an effort), skeptics…are skeptical. Canada has implicitly outsourced its defense to the United States and appears willing to accept the bilateral and international consequences associated with maintaining a trivial military capability. Unfortunately, national defense is not a *national* commitment; instead, the Liberal Party and the NDP implicitly campaign against any military commitment beyond light peacekeeping. No Liberal party leader since Lester Pearson has had active military service (and Pearson's was in World War I). Indeed, the Liberal icon of the twentieth century, Pierre Trudeau, viewed the armed forces with contempt, and Chrétien's ignorance was legendary. Consequently, Canadian defense strategy predictably yo-yos, with Tories attempting to stretch the envelope when in power and Liberals assuring that the envelope is never mailed. For its part, the NDP barely has progressed beyond its historic commitment to withdraw Canada from NATO and NORAD.

As a consequence of the Afghanistan commitment, the Canadian Army significantly improved; the odds, however, are that desperate efforts from the Great Recession to bring the budget into balance will eviscerate its new strength. Modernization is expensive; citizens are more concerned about social services. Moreover, Canadians are loath to use their new CF combat capability, and it is a use-it-or-lose it reality since trained individuals and units blunt their "edges" and retire without passing along their expertise. We expect the

CF to again lie down on the couch—comfort rather than commitment.

National Unity

Somewhere in the Canadian psyche lurks the psychotic suspicion that the United States is salivating at the thought of rending Canada into pieces and appropriating the nice parts with energy resources. Denials are hopeless, of course (in their minds we would lie about our intentions), but surely 150 years of inaction on our part should make some impact. Our point is not that we want parts of Canada—we want neither 34 million Canadians who believe they are entitled to unaffordable social services in general, nor a northern-most rust belt state in Ontario. Already having one prospective set of language problems with Spanish-speaking citizens, why would we seek to burden ourselves with another self-referential, long-indulged language group such as the francophones of Quebec? Rather it is the objective of the foregoing material to warn Canadians that they have created a political construct epitomized by political structures in both Quebec and in the West that are breathtakingly fragile. Canadians are blithe about the spun-glass nature of their confederation. The political straitjacket that defines parliamentary practice leaves the rich but weak provinces to be exploited and dependent on the self-imposed limitations of large provinces such as Ontario. It could be blown away by a single well-focused demagogue.

While the United States has no interest in an independent Quebec—or fragmentation of other elements in Canada—neither should Canadians believe that the United States has a special stake in preserving a united Canada. If Canadians would not shed blood to preserve their national unity, why should Washington care how many Canadas there might be 50 years from now? Among the great international tragedies of the past 100 years, the dissolution of Canada (presumably peacefully in a Czech-style "velvet divorce") would rank rather low on the list. It would be more on the level of, "Gee, that's too bad," than "Oh God, this is 'never again' horrible." Indeed, a good number of the component geopolitical elements of Canada have the technical qualifications to be nation states themselves. Such might be the ultimate affirmation of Irish rock star Bono's remark that "the world needs more Canada."

Canadian Vagaries: Crime and Punishment, Language, and Human Rights

Canada is instructive on the topics of criminal justice, official language requirements, and human rights. However, it is instructive in the form of examples to avoid rather than emulate. The degree to which Canadians fail to punish those worthy of punishment is breathtaking; the absence of capital punishment is less an example of exalted humanitarianism than a constant affront to the memories of the murdered. A US mind reels at the thought of the next Timothy McVeigh (the Oklahoma City bomber) or the next John Muhammad-Lee Boyd Malvo (Washington, D.C. snipers) or the Boston Marathon Bomber Tsarnaev brothers escaping to Canada and claiming political refugee status, transforming the Canadian legal system into a pretzel while the United States fumes over delays in extradition. And there are enough illustrations of Canadian refusal to extradite for the United States to be confident that a Liberal or NDP

government would enjoy ripping feathers from the eagle.

The societal commitment to bilingualism (French and English) is ostensibly a noble effort to generate national unity by accommodating the "French fact" at every official level throughout the country. The result, however, is endless expense and artificial effort by individuals to qualify in the language of the "other." After a generation of high-minded exertions, there is only limited substantial accomplishment in that regard, and, as of 2011, a smaller percentage of Canadians are bilingual than existed previously. But there remains intense sniping if a unilingual individual gets a prominent federal position. In real terms, Canada is no more bilingual than it was a century ago; however, the policy effectively assures that virtually no unilingual individual can start late in Canadian federal politics and expect to learn the second language well enough to compete against those born bilingual or learning the second language in their youth. Moreover, language becomes a constant source of societal division (as well as an irritant for those whose "native" language is neither English nor French). Every politico-economic issue concurrently turns into a language issue. The slow motion train wreck that is Belgium could be a harbinger for Canada's future.

Lastly, although Canada is unquestionably generally respectful of human rights, its restrictions on free speech are becoming invidious. The U.S. philosophy that controversial speech should be met with countervailing opinion does not have comparable resonance in Canada. There, the definition of "hate speech" appears to be more "I don't like what you are saying," or "You hurt my feelings," than legally actionable slander and libel. Canadian human rights commissions on federal and provincial levels may have had best-of-intentions origins; however, they have become instruments of persecution, prompting self-censorship at vast expense for those charged in tribunals that are characterized by irregular, extrajudicial rules and proceedings.

Concluding Comment

There is much to be said regarding U.S.-Canadian relations that has not previously been said or glossed over. The twentieth century did not turn out to be Canada's century, as Wilfred Laurier predicted in 1904 (and not even Teddy Roosevelt made so boastful a claim for the United States). Nor is the twenty-first century likely to be the century of Canada; despite the latest exegesis in *The Canadian Century,* no one is so predicting. Historians may conclude that the twentieth century was that of the United States—but, then again, no American is projecting U.S. global dominance in 2099.

The foregoing manuscript should not be regarded as mean-spirited; indeed it may be "spirited" in its comment and observation and critique, but there is no injurious or uncaring intent. Canada and the United States share much in common, as has been examined in *Uneasy Neighbo(u)rs,* while maintaining defining differences that are instructive rather than destructive. As we move more deeply into the twenty-first century, we will continue our mutual learning process with far more to be achieved from concord than from discord. But we must not fear to grasp the nettles; opportunity can be sharply pointed—even painful—but still proffers advantage to those who reach forward to grasp.

Annex

PRESIDENTS AND PRIME MINISTERS: CANDID VIEWS

A Summary of the Recent Relationship

During the past 25 years, we have had a healthy dollop of both the good and the not-so-good in our bilateral relationship. In the early 1990s, an observer could honestly say, with only minor caveats, that the bilateral relationship was "never better." Subsequently, one had to refer to the sobriquet that Canada and the United States are "best friends, like it or not." And from 2001 to 2008, we were largely in the "not" portion of that cycle. The 2008 election of President Barack Obama (and his 2012 reelection) has been a game changer—at least perceptually—and his conjunction with a quietly conservative government under Prime Minister Stephen Harper has minimalized discord.

During this 25-year period, there have been four U.S. administrations and four Canadian governments. For Canada, the majority of the era was dominated by the Liberal Party, which won a smashing election in 1993, renewed its majority victories in 1997 and 2000, and held on to power with a minority government in the 2004 election. The 1993 election, in effect, annihilated Canada's founding party, the Progressive Conservatives, dropping it from a majority of 169 seats to two; it is hard to find a defeat in a democratic country that was more all-encompassing. In 1993, the Tories had encountered a perfect storm in politics: the end of a normal mandate running nine years; personal leadership failures ranging from hubris to sleaze; a sharp recession; a hated and highly visible new tax on goods and services; and an idealistic effort to satisfy Quebec interests within the Canadian federation, ending instead with intense bitterness and even deeper national divisions.

The subsequent Liberal majority victories were won both on positives and negatives. First, Jean Chrétien could continue with being "not Brian Mulroney" (or for that matter "Mulroney in skirts" as he characterized short-term Prime Minister Kim Campbell). The "small c"

conservative alternative to the Liberals was fragmented between the remnant Tories and the Western-based Reform and Canadian Alliance parties. The solely Quebec-based separatist Bloc Québécois made it even easier for the Liberals—as the experienced "natural governing party"—to dominate the political scene.

But victory was not only the consequence of a fatuous or fragmented opposition. Canada had benefited from one of the great economic booms of the century, and the economic upswing permitted the Liberals to balance the budget and concurrently reduce the national debt. Simultaneously, they reduced taxes while lower interest rates and very low inflation also pushed down the unemployment levels. Throughout the 1990s and into the twenty-first century, the Liberals also operated an ostensibly scandal-free government with the prime minister projecting a "clean Jean," little-guy-from-Shawinigan image that effectively belied underlying realities.

This happy circumstance began to erode with the fractious transition from Chrétien to Chrétien's finance minister, Paul Martin, (the political equivalent of Chrétien's defenestration). Martin was immediately plagued by a toxic combination of residual rejection by Chrétien loyalists, a complex bribery and fundraising scandal tarring the Quebec federal Liberals, and a revived conservative movement that stitched together the Reform and Progressive Conservative parties into the Conservative Party of Canada (the CPC, who are still regarded as "Tories"). Although Martin eked out a minority government in 2004, he was defeated in 2006 by Stephen Harper, who won a very narrowly based minority government and a stronger but still minority mandate in 2008 before finally obtaining a majority in May 2011. Faced with the exigencies of the Great Recession as well as its minority status, the Tories maneuvered very carefully for five years with relatively uncontentious proposals while seeking to create circumstances that would give them a majority. Having obtained what they have so vigorously sought while strengthening their politico-economic bilateral weight in the process, their effective use of this majority will be a separate challenge and a new era for Canadian politics. It has not been since 1993 that the Tories had a majority, and two years into a four-year majority mandate, it is still unclear what the party's next objectives, other than reelection in 2015, will be. Or whether simply surviving until 2015 will suffice.

Under these varying circumstances, presidents and prime ministers have had mixed relations.

Bush the Elder and Mulroney

A close personal relationship complemented an easy substantive period in bilateral relations. The U.S.-Canada Free Trade Agreement between George H. W. Bush and Brian Mulroney was gearing up; the follow-on North America Free Trade Agreement, which included Mexico, was in negotiation. Canada provided support for U.S. action in Panama and sent military assistance to reverse Iraqi aggression against Kuwait.

Clinton and Mulroney/Campbell

This year-long stretch between November 1992 and October 1993 was a time of transitions. There were no personal disconnects between senior leaders; although Mulroney clearly would have preferred a reelected "Bush 41" to Bill Clinton, he made no public comment. Clinton's generally

congenial nature eased any personal interaction, and his unfamiliarity with foreign affairs was not a bilateral problem. The new Democratic administration was getting control of the levers of authority; there was no U.S. ambassador in Ottawa until August 1993, demonstrating the priority Washington placed on bilateral relations. For their part, the Canadians were consumed with the Tory leadership campaign to replace Mulroney with Kim Campbell and then their federal election.

Clinton and Chrétien

The personal relationship between Bill Clinton and Jean Chrétien never reached Bush-Mulroney intimacy levels, but was congenial enough for reciprocal official visits (Clinton to Ottawa in 1995 and Chrétien to Washington in 1997) and casual golf matches that were all but closet affairs (and deliberately no public "fishing buddy" relationship). The prime minister could never resist pointed political jabs at the president, but these infelicities were noted only by specialized "Canada watchers."

Substantively, the bilateral relationship continued to drift, but it drifted in calm seas. The end of the Cold War meant that previously neuralgic East-West issues from arms control to "third force" initiatives were passé. Apartheid in South Africa had ended. The Sandinistas in Nicaragua and the rebels in El Salvador had been defeated and democracy had broken out in Latin America. Events were even hopeful in the Middle East, as reflected in the 1993 Oslo Accords and slow progress in Palestine-Israel negotiations. Coincidentally, the crises that arose were third tier in global importance, regardless of local bloodshed: we addressed the disintegrating Yugoslavia jointly; we failed by omission in Rwanda's massacres; we ousted a set of traditional despots from Haiti and restored "democracy" as epitomized by Jean-Bertrande Aristide. It is easy to be a soldier in the summer.

Internally, Canada wrestled with its national existence. The Mulroney failures to rectify Quebec's concerns about its role within Canada, as epitomized by abortive Meech Lake and Charlottestown accords, prompted a separatist resurgence. First came the defeat of the federalist Quebec government in 1994, and then a provincial referendum in 1995, which, if successful, would have led to Quebec independence. The United States weighed in discretely, but clearly in favor of Canadian unity; Ottawa was quietly appreciative—it asked and we delivered. Other potential domestic issues were set aside; by happy coincidence, the economy was booming and all boats were rising with the surging economic tide.

Bush and Chrétien

U.S. Republicans and Canadian Liberals are not natural friends; historically, circumstances have conspired to keep the disconnects somewhat hidden, but the relationship between George W. Bush and Jean Chrétien was not one of those instances. The personal relationship was stiff at the start and strained at best until Chrétien resigned in December 2003. By making clear during the 2000 campaign that they preferred "President Gore," the Liberals alienated a conservative Republican administration even before the get-go. Chrétien's essential skepticism towards the United States was repeatedly illustrated in reflexively hostile non sequiturs when discussing other topics. The extended calm in foreign affairs collapsed as Foreign Minister Lloyd Axworthy's soft-power legacy continued to irritate.

While the U.S. global perception changed following 9/11, Canadian adjustment to this new reality was significantly less than vigorous. Chrétien implied that the United States was at least partly at fault for the attack (apparently we were not kind and gentle enough to suit his sensibilities). To protect their own interests, Canadians plodded through heightened border security, immigrant control, and terrorism alerts. They left the continued impression that they resented tossing even sops to Cerberus and that responding to U.S. antiterrorism requirements was the equivalent of placating a somewhat demented uncle who controlled a valuable legacy. For their part, nice Canadians would never have terrorists do nasty things to them.

Buttressed by UN and NATO endorsement, Canada joined the United States in military action in Afghanistan, but bilateral disconnects on foreign policy came to a head over Iraq policy and Canadian refusal to participate in the "willing" coalition to remove Saddam Hussein from power. Criticism from Ottawa became increasingly pointed—reflecting, to be sure, a national consensus that the United States was headed precipitously in the wrong direction. For its part, Washington was willing (if not happy) to accept Canadian nonparticipation, but it insisted on recognition of our right to make decisions that we perceived to be in our interests. The Liberals enjoyed (and continue through the present to enjoy) a hardly muted "I told you so" when no weapons of mass destruction were discovered, and the United States flailed about in what appeared at the time to be a bottomless morass.

Happily economics did not follow foreign policy over the cliff. The bilateral trade relationship, long the most important and largest in the world, continued to rise almost without pause to a level of $2 billion per day. To be sure, the rolling laundry list of trade disputes continued—more a reflection of the size and complexity of the relationship and local interests than demonstrating ideological difference. Hence the sale of Canadian softwood lumber to the United States has been in dispute since prior to Canada's founding, and probably will continue until North America has been clear cut. The emergence of "mad cow" disease based on the positive tests for bovine spongiform encephalopathy (BSE) in Canadian-origin cows had potentially expensive solutions such as universal testing of all slaughtered cattle or could be "jawboned" with efforts by lobbyists and diplomats to convince officials worldwide (particularly in Asia) that the remaining risks don't justify massive expense. To no surprise, the latter approach was adopted—and eventually (at political risk that was ignored by Canadians) Bush ended the boycott of Canadian beef.

It was doubtless amusing to President Bush that he ignored the "iron law" of Canadian-U.S. electoral politics proclaimed by Prime Minister Chrétien during President Clinton's address to Parliament—that no U.S. president who had not addressed Parliament ever had been reelected. Bush got his second mandate in the 2004 election.

Bush and Martin

From the U.S. perspective, Paul Martin had the enormous starting advantage of not being Jean Chrétien. On foreign affairs, the United States was willing to move forward and agree to disagree on Iraq, while cooperating anew on emerging problems such as restoring democracy (again) in Haiti and stabilizing

Afghanistan. Unfortunately, in relatively short order, the Martin government squandered the potential for improved relations, *inter alia*, by refusing to participate in the missile defense of North America after sending mixed signals indicating basic bilateral accord. And during his 2006 reelection battle, Martin leaned heavily on traditional tiresome anti-American themes that further bruised the bilateral relationship.

Economics, however, were less politicized; they were handled by technocrats around election interludes.

Bush and Harper

If Liberals want to have the worst relations with the United States that will not prompt actively damaging countermeasures, Conservatives want the best relationship that will not cost them the next election. Recognizing this reality (and appreciating, albeit regretting, the toxic nature of Bush's personality and politics for the Canadian polity), the United States asked very little from the Harper government. If anything, it was simply pleased not to have to shovel clods of manure (figuratively) from its embassy doors on a daily basis. The absence of gratuitous insults from the Canadian government lightened bilateral relations. Meetings at North American Summit sessions (along with Mexican leadership) actually were congenial, although the match between "cowboy" Bush and "accountant" Harper was not particularly close. The United States was quietly pleased with the April 2006 indefinite extension of the NORAD agreement, and refrained from raising any question regarding Canadian participation in continental missile defense. We anticipated the projected Canadian withdrawal from Afghanistan, regretting that decision without pressing our preference that Ottawa continue its commitment. The relationship was a "working" one.

Obama and Harper

Barack Obama is a game changer so far as Canadian attitudes toward the United States are concerned. No longer afflicted with Bush the Barbarian, Canadians could lament that they didn't have a visible minority, sartorially elegant leader equivalent to Obama. Indeed, well after Obama mania chilled out in the United States, Obama remained highly popular in Canada—as much for what he was (not Bush) as for what he did. During 2009, visuals were everything: a quick winter trip to Ottawa, playing tourist in the Byward Market, a backpat for Harper were sufficient. Harper may have the charisma of a wooden Indian, but no matter, Obama had sufficient quantities for both of them. Joint effort on subjects such as Haiti earthquake relief was easy.

Steady cooperation (and Canadian NATO leadership in 2011 of efforts to depose Libya's erstwhile Muammar Gaddafi) has smoothed the previous edgy relationship with the Liberals. The Obama cookie (a ghastly sugar cookie with a red maple leaf) remains popular in Ottawa's Byward Market.

While the United States certainly desired stronger border security and Canadian military participation in Afghanistan after July 2011, it had more than enough problems (Iraq, Iran, North Korea, revanchist Russia, and the Great Recession) to preclude any focus on the tertiary bilateral problems with a neighbor, according them no trouble. The Conservatives' majority government victory in May 2011 has further eased relations. The Tories now had the authority to make decisions in such areas such as

intellectual property and “thinning” the border with the “Beyond the Border” continental perimeter security agreement without facing an immediate election prompted by the Opposition seize-the-moment opportunism.

And while Obama did not make the ritualistic first-term address to Parliament, thus further invalidating the need for such a visit to be reelected, neither did Harper make a state visit to Washington). Nevertheless, Obama’s and Harper’s personalities are not actively discordant, and reciprocal state visits (following a Keystone XL Pipeline decision) are still possible. Foreign policy views largely coincide: strong support for Israel, distancing from involvement in Syria, rejection of Iran obtaining nuclear weapons capability, and expanding trade agreements. Presumably, Harper might have preferred Mitt Romney, a philosophical conservative in the 2012 election, but he was far too adroit to let preferences show. Obama qualifies as the known “devil,” and Harper viewed the Keystone XL Pipeline imbroglio as a temporary hitch rather than a defining disconnect. However, the failure to name a U.S. ambassador to Ottawa more than six months after Obama’s second inaugural, and the nominal nature of the Canadian ambassador in Washington meant that any problem could fester before being addressed at senior levels.

NOTES

1 The text will use "Canadian Forces" (CF) and "Canadian Armed Forces (CAF) interchangeably

2 U.S. Government assessment of "The Quebec Situation: Outlook and Implications:" The entire text is included as an appendix in Jean-François Lisée, *In the Eye of the Eagle* (Toronto: Harper Collins Publishers Ltd, 1990), p 301.

3 Mary Nameth and John Pifer, "All of Nothing," *Maclean's*, October 30, 1995, p 32.

4 Responding to the referendum shock, Ottawa struggled to devise further approaches to address Quebec concerns and to fulfill commitments made by Prime Minister Chrétien during the referendum campaign. The result was classic "carrot and sticks." Intensive internal review devised a series of positive inducements informally labeled "Plan A" (which I have relabeled "Plan B") which included parliamentary action recognizing Quebec as a "distinct society" and creating a set of regional vetoes over constitutional (with Quebec as a "region"), and identifying areas of federal responsibility—for example, manpower training, forestry, and tourism—that could be devolved or transferred to provincial authority. On the complementary "Plan B" track (which I have relabeled "Plan C"), senior Government of Canada officials implied that a section of Quebec could remain with Canada, such as that inhabited by aboriginals in the North, should Quebec act to leave Canada. Under the rubric, "if Canada is divisible, Quebec is divisible," English-speaking Quebeckers also have advanced formulae for separating parts of Montreal and the Ottawa suburbs from an independent Quebec.

5 Andrew Phillips, "The Bouchard Factor," *Maclean's*, October 23, 1995, p 11.

6 Anne McIlroy, "Bouchard Has Made Them Believe," *Ottawa Citizen*, October 29, 1995, p A3.

7 That Quebec can be characterized as a nation could be concluded from the litmus tests of state power outlined in a number of

standard international relations texts, e.g., Hans J. Morgenthau, *Politics Among Nations* (New York: Knopf, 1967). More specifically, however, the U.S. government concluded as such in the 1977 intelligence assessment; see Lisée, *In the Eye of the Eagle,* p 301: "It should be kept in mind that Quebec does meet generally accepted criteria for national self-determination. … There is also no question regarding the long-term viability of an independent Quebec…" and p 299: "…Quebec would certainly be a more viable state than most UN members…"

8 As well as impressionistic judgments, Montreal's *La Presse,* November 25, 1995, published a poll indicating that 57 percent of 18-34-year-olds voted "yes"; 54 percent of those ages 35-54; but only 38 percent of those over 55. Extrapolating these numbers, the poll suggested "yes" would get 50.8 percent in 2001 and 52 percent in 2006. (Such projections were never tested.)

9 Public Papers of the Presidents, Jimmy Carter, 1977, Vol. I (January 20 to June 24), U.S. Government Printing Office, Washington, D.C. 1977, p 223-224.

10 *Washington Post,* February 26, 1977, p A12.

11 *In the Eye of the Eagle*, Jean-François Lisée, HarperCollins Publishers Ltd, 1990, pp 301.

12 *U.S. Department of State Bulletin,* Vol. 80, #2039, June 1980, pp 21-3.

13 *U.S. Department of State Bulletin,* December 1984, Vol. 84, #2093, pp 55-6.

14 *Public Papers of the Presidents, Ronald Reagan 1987*, Vol. 1, January 1-Jul 3, 1987, U.S. Government Printing Office, Washington, D.C., 1989, pp 336-41.

15 *Public Papers of the Presidents George Bush 1990*, Vol. 1, U.S. Government Printing Office, Washington, D.C., 1990, p 484.

16 *Public Papers of the Presidents George Bush 1990*, Vol. 1, U.S. Government Printing Office, Washington, D.C., 1990, p 506-09.

17 James Blanchard, *Behind the Embassy* Door, Sleeping Bear Press, Chelsea, Michigan, 1998, p 199.

18 *Public Papers of the Presidents William J Clinton,* 1995, Vol. 1, January 1-June 30, 1995, U.S. Government Printing Office, Washington, D.C. 1996, p 254.

19 James Blanchard, *Behind the Embassy Door,* Sleeping Bear Press, Chelsea, Michigan, 1998, p 238.

20 *Public Papers of the Presidents William J Clinton, 1995,* Vol. 2, July 1-December 31, 1995, U.S. Government Printing Office, Washington, D.C. 1996, p 1,678.

21 *Public Papers of the Presidents William J Clinton, 1999,* Vol. 2, July 1-December 31, 1999, U.S. Government Printing Office, Washington, D.C. 2001, p 1,734-40.

22 Ross Laver, "Mood of a Nation: Looking Inward," *Maclean's,* January 2, 1995, p 11.

23 From the 1977 U.S. government study cited by Lisée, *In the Eye of the Eagle*. pp. 301-2.

24 *Ibid.*

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