Plan A and Plan B

Plan "A"

‘Plan "A"’ is the term given to the federal initiatives designed to address Quebec's traditional demands through constitutional and non-constitutional channels after the federalist’s narrow victory in the 1995 Quebec referendum. Movement on the constitutional side proved impossible because key provinces in English Canada – Ontario, Alberta, and British Columbia – objected to entrenching adistinct society clause in the Constitution. Ottawa therefore proceeded with several non-constitutional measures.

Its ‘Plan "A"’ non-constitutional response encompassed three initiatives: First, a Parliamentary resolution recognizing that Quebec is a distinct society; second, a law requiring that the federal government obtain the consent of regional majorities before Ottawa could propose certain types of constitutional amendments; and third, an offer to withdraw from the job training field.

The elements of distinct society that were specifically identified in the Parliamentary resolution were Quebec's French-speaking majority, unique culture, and civil law tradition. The original version of the*Constitutional Amendments Act* resurrected the constitutional amendment formulaproposed in the Victoria Charter. The original bill stipulated that the federal government would not proceed with an amendment to the Constitution under section 38's general amending formula unless it had the consent of a majority of the provinces. This majority had to include Ontario, Quebec, two or more provinces from Atlantic Canada with more than 50 percent of the region's population, and two or more provinces from Western Canada with more than 50 percent of the West's population. British Columbia objected to this formula on the grounds that it failed to recognize Canada's Pacific province as a distinct region. The federal government bowed to this sentiment and the final Act gave British Columbia the same status as Ontario and Quebec. This change also effectively made Alberta's consent essential since Alberta contains more than 50 percent of the population of the Prairies. Significantly, the Act is silent on what exactly ‘provincial consent’ means.

In respect to job training, the federal government offered to withdraw from this field altogether. Federal changes to the unemployment insurance program offered all provinces and territories the opportunity to assume responsibility for the design and delivery of job training programs. Provincial job training initiatives would receive funding from the federal government's employment insurance account.

Plan "B"

Like ‘Plan "A"’, ‘Plan "B"’ refers to several federal initiatives that were taken after the 1995 Quebec referendum. ‘Plan “B”’ is the label attached to federal initiatives to identify the consequences of secession and shape any future referendum on this issue. Its fundamental premise is that all of Canada should have a very important voice in determining the

legitimacy of any future effort by Quebec to secede. Its most significant features were the decision to refer to the Supreme Court of Canada several questions pertaining to the secession of Quebec from Canada (the Secession Reference) and the Clarity Bill (An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference, S.C. 2000, c. 26), the federal government's response to the Supreme Court's decision in the Secession Reference.

The legality of a unilateral declaration of independence was the issue the federal government asked the Supreme Court to wrestle with in the Secession Reference (*Reference Re Secession of Quebec*, [1998] 1 S.C.R. 217). The federal government asked the Supreme Court to determine whether or not a unilateral secession of Quebec from Canada was legal according to either the Canadian Constitution or international law. In its decision, the Supreme Court stated that unilateral secession was illegal under both the Canadian Constitution and international law. But the Court also found that "a clear majority vote in Québec on a clear question in favour of secession would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize." In other words, Canadian politicians are obliged to negotiate the terms of secession with Quebec if a clear referendum question on secession produces a clear majority in favour of leaving Canada. The Supreme Court underlined that, when it came to deciding what constituted "a clear majority on a clear question," this was a matter for "the political actors" to decide.

The Clarity Bill (also known as Bill C-20) responded to this invitation from the Supreme Court. It outlined the circumstances where the federal government would agree to negotiate the secession of Quebec from Canada. As for a future referendum question, Bill C-20 stipulated that the sorts of questions posed in the 1980 and 1995 referenda would not constitute a clear question onsecession. The federal position is that the only legitimate referendum question would be one that plainly states that Quebec intends to leave Canada and become an independent state. As for a clear majority, Bill C-20 left the federal government with a great deal of latitude to decide where the dividing line between a majority and a clear majority rests. No specific percentage of the vote is stipulated in the legislation. Instead, the legislation indicates that the government will determine the question of whether a clear majority has been obtained by considering the following three factors: the size of the majority of votes endorsing secession, the percentage of eligible voters voting in a referendum and, "any other matters or circumstances it considers to be relevant."

The same legislation also outlined the subjects that Canada would expect to negotiate in secession negotiations: division of assets and liabilities, borders, minority rights, and Aboriginal rights, interests, and territorial claims.

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