

A Unilateral Declaration of Independence and the 51st State? Ottawa's Clarity Act Could Push Alberta There

By George Koch and Jim Mason

On a mild though grey winter's day just before Christmas, citizens of the Yugoslav Socialist Republic of Slovenia voted 95.7 percent in favour of becoming independent. Six months later, after negotiations regarding a looser "confederal" arrangement with their Serbian overlords in Belgrade broke down, the Slovenian Parliament issued a unilateral declaration of independence (UDI).

That was on June 26, 35 years ago this week. Since then, Slovenia has been through some hard times – including a brief war with Serbia – but the small nation of 2 million people endured and evolved into a thriving, fully Westernized nation-state.

Could something similar occur between Alberta and Ottawa in a couple of years' time? And could the very law designed to keep any Canadian province from separating play the central role in bringing that about?

It seems far-fetched, especially with Alberta separatism

appearing to lose steam over the past several months. But there's a disturbing scenario that sees the federal *Clarity Act* backfiring badly, triggering unintended consequences that push Alberta towards a UDI. And, from there, a botched and heavy-handed response from Ottawa akin to what Serbia tried to pull on Slovenia, pushing the newly independent Alberta onwards into the arms of the United States.



As we explored in two previous columns as well as *C2C Journal* essays ([here](#) and [here](#)), the federal *Clarity Act* of 2000 is anything but clear. The law fails to provide an acceptable referendum question. It refuses to state what level of majority is sufficient to trigger independence talks. Nor does it define how those talks would be conducted or how they would conclude. Instead, the law places all discretion and decision-making authority in Ottawa's hands.

There lie the seeds of future disaster. The bill was the brainchild of Stéphane Dion, Intergovernmental Affairs Minister to Prime Minister Jean Chrétien – two men of immense arrogance and utter cluelessness about Western Canada. One can only presume that they assumed a tough, one-sided law would overawe not only Quebec, their primary target, but any pipsqueak hinterland province that contemplated secession.

They clearly didn't know Albertans. More than 25 years later, what is more likely to happen when Albertans digest just how heavily Ottawa has stacked the deck with the *Clarity Act*? When they learn that the process has been designed so that one side can never win, because Ottawa reserves the right to reject almost any referendum result it dislikes. That Ottawa won't be negotiating *with* them, but dictating *to* them.

Will Albertans simply give up in resignation? As columnist Caitlyn Madlener [recently noted](#) in Juno News, "Albertans react poorly when decisions are imposed on them from above by people convinced they know better." So I would say the worse Ottawa behaves, the more inclined Albertans become to vote "Yes".

The *Clarity Act's* obtuseness also brings so-called "strategic" voting back into play. Years before it was passed, then-Reform Party MP (and future Conservative Prime Minister) Stephen Harper tabled a draft bill, the *Quebec Contingency Act*. Its objective was to discourage secession *voluntarily* by making it crystal-clear to Quebeckers that a "Yes" vote meant one thing only: complete independence.

Harper's bill provided succinct and unambiguous wording for a referendum question, and specified that a simple majority (50 percent plus one vote) was enough to trigger secession negotiations. In setting out an achievable, constitutional path to independence, the bill aimed to cleave "leaners" away from hardcore separatists – increasing the "No" vote and making Quebec's secession *less* likely. But strictly through the choice Quebeckers themselves would make.

The Liberals' *Clarity Act* dumped Harper's key features, particularly its tough but good-faith route to independence. Instead, its uncompromising, maximalist nature attempting to render independence all-but impossible *by law* seems not only sure to reignite the passions of committed separatists but to revive strategic voting by leaners.

This is critical to Alberta's situation today. As people who don't want to leave come to believe there's no real chance of a "Yes" vote triggering actual secession, then why not cast a "Yes" ballot just to signal Albertans' frustration with Ottawa's policies and arrogance, to "send a message", "strengthen our position", "force a better deal", and so on. Voting "Yes" becomes cost-free. Where's the downside? There seems to be none.

Oh, but there might well be. Recall that in one credible poll last year, [41 percent](#) of respondents supported independence – which was actually 48 percent of *decided* respondents. Almost half. So now imagine a couple of years from now, Alberta's legitimate concerns are once again ignored, our aspirations thwarted. A vote on independence is called at last. Between a fired-up separatist base who actually want to leave and a swath of disgruntled federalists who just want Alberta to be respected within Canada, a majority materializes.

Canada's political class, the whole Laurentian Elite, academia and legacy media, are traumatized. Even Albertans are shocked at what they've just done.

Nobody can say what anybody would do next. It's conceivable the Government of Alberta would attempt to get away with doing nothing, pretending much like the UK's government after the 2016 Brexit vote that the people were really just venting. Conceivable, but not likely.

If it then attempted to use the *Clarity Act* framework to negotiate, it would quickly hit a wall. Ottawa would use every legal and procedural lever to find the "Yes" majority "not clear" and, if that failed, to bog down or derail negotiations. Are Albertans likely to take all of that lying down? A majority has just voted to leave. They've have come this far, only to have Ottawa sabotage them yet again – just as the government of crumbling Yugoslavia refused to loosen the reigns on Slovenia in 1991.

In such an atmosphere it won't be long before "UDI" begins to appear in social media posts, private conversations and probably the Legislature. Sure, it's illegal and unconstitutional – the Supreme Court said so in 1998. But at this point, so what? With the Government of Canada using the law not as an impartial instrument, with fairness to all, but as a bad-faith tool of self-interested manipulation, its legitimacy will approach zero. Why should only Alberta remain bound by the letter of the law?

Instead of a wet blanket smothering secession, the *Clarity Act* will have served as a political accelerant. And the far-fetched, unreasonable and reckless becomes the least-worst option in a bad lineup.

Once again, nobody can say what anybody would do next. With the tables turned, would Ottawa now take it lying down? More likely, a Liberal government that in 2022 gleefully vilified protesters whose message it didn't like, then eagerly invoked the *Emergencies Act* to crush a peaceful protest that *it knew* was not a national emergency, would do the same again. Only this time sending the remnants of the Canadian Armed Forces into Edmonton to ensure order and arrest political leaders the prime minister had just accused of "treason".

And *Voilà*: a seemingly bizarre scenario becomes political reality, the federal *Clarity Act* achieves the opposite of its intended purposes, and a catastrophe descends upon all sides. All sides, that is, except Washington, D.C. Because at that point, what other recourse would Alberta have?

The [original, full-length version](#) of this article was recently published in [C2C Journal](#).

Jim Mason holds a BSc in engineering physics and a PhD in experimental nuclear physics; he lived and worked in Alberta for 17 years and is currently retired and living near

Lakefield, Ontario.

George Koch is Editor-in-Chief of C2C Journal.