

Just say No to help Quebec

Let's not repeat mistakes Trudeau made

The origin of our present constitutional malaise can be traced to an important political misjudgment by Pierre Trudeau in 1981.

He had threatened to unilaterally patriate the Constitution, thereby alienating every provincial government. This would have provoked a constitutional crisis that could have been resolved by going to the people — either through an election or a referendum.

Instead he decided to accept a provincial compromise that left us with an incoherent amending formula, a Charter of Rights with a notwithstanding clause (which allows federal parliament and provincial legislatures to override certain sections of the Charter) and a single province — Quebec — on the outside.

These issues, particularly the isolation of Quebec, have plagued Canadian politics ever since. It is easy, of course, for academics to be wise after the fact. We cannot change history.

However, the 1992 referendum gives us a chance to learn from our mistakes and be wise before the fact for a change. In my view, the wisest course of action is for French and English Canadians to unite in voting No.

The case against the Charlottetown agreement rests less on its details than on the way it is being promoted by the Yes side. It campaigns as if the real question was concerning the independence of Quebec — which could be addressed in the future and would be answered in the negative.

The argument of the Yes forces is this: by embracing the imperfect agreement, we can postpone the day of reckoning, perhaps indefinitely. It follows, in their minds, that if we vote No, the country faces imminent dissolution.

My interpretation is rather different.

Quebec is likely to reject the deal for a number of reasons. First, it does not meet traditional Quebec requests for greater decentralization, nor does it meet the expectations built up by Premier Bourassa in the two years since the collapse of the Meech Lake accord.

Second, in a non-binding referendum, it costs nothing for Quebecers to say No to a deal worked out over several months by representatives from English Canada and modified only slightly after Quebec rejoined the talks in August 1992.

Third, the offer to guarantee Quebec 25 per cent of seats in the House of Commons is unlikely to generate much support. If the province's population does not decline, it has gained nothing in this respect. If it does decrease drastically, history has shown how

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previous Canadian constitutions (1791 and 1840) have been undermined by questions of representation. This one would be no different.

With the agreement facing the very real prospect of defeat in Quebec, Ontarians find themselves in an interesting predicament.

We could take the position that what is good for Ontario is good for the country and the agreement does give Ontario more seats in the most important legislative chamber — the House of Commons.

It also decimates Alberta's dream of an equal, elected, effective Senate. This would reduce that chamber to a collection of backbenchers barred from Cabinet — unable to hold the government accountable and without any real power except to delay some legislation for 30 days, and veto a very narrow category of legislation regarding French language or taxes on natural resources.

There is also a Charter outlining our goals as a society which gives us a nice warm feeling until we discover it is non-justiciable (not subject to review by the courts) and therefore utterly unenforceable except by some unspecified advisory mechanism to be created later by the First Ministers.

Let us not forget the much-heralded (and very convoluted) Canada clause. It recognizes equal provinces, a distinct society for Quebec, the rights of minority group languages, individual and collective rights. This clause is justiciable. Good luck to the courts in figuring out what it means.

The Yes side is perfectly right in denouncing such criticism as small-minded. They want to talk about larger questions and 'the national interest.' So with apologies to the chairman of the Royal Bank of Canada and to all the 'prominent' Canadians supporting this package, my understanding of the national interest is as follows:

This agreement is dead in Quebec. Therefore, let us avoid repeating the Trudeau mistake of further isolating Quebec by making sure the agreement is also defeated in Ontario and in as many other provinces as possible.

Renegotiation of our governing rules, if and when it is necessary, should be undertaken by a constitutional convention specifically chosen for the task and not by the First Ministers. There is no other route to constitutional legitimacy and peace. The sooner the First Ministers realize this, the better. Help send them a short message — No.