The 78-page ruling by the Supreme Court of Canada on the issue of Quebec secession was preceded by much apprehension and uncertainty. It was the first time in history that a democratic country had defined in advance the legal terms of its own dissolution. Many wondered if the Chrétien government's hard-line strategy, known popularly as the Plan B approach, would backfire. For years successive governments had worked to amend the Canadian Constitution to satisfy the needs of all provinces and territories, especially those of Quebec. Canadians had become used to the federal government devising potential constitutional solutions to make the country work solutions, however, that didn't seem to make much progress. The new approach, or Plan B, deliberately raised the stakes and was intended to demonstrate to Quebecers that a vote for sovereignty would not be a simple procedure with a clear outcome. Plan B was a risky strategy. The Government of Canada asked the Supreme Court of Canada to rule on Quebec's legal right to separate, to deliver a reference decision. That meant the Court would pass judgment on whether the Canadian Constitution took precedence over Quebec sovereignist claims that the province of Quebec had the right to self-determination and secession. Political analysts surmised that no matter what the decision would be, the future of Confederation could be at risk. If the Court was too soft on secession, separatist leader Lucien Bouchard would claim victory. If the Court was too harsh, the government risked a backlash in which separatists might interpret the ruling as just another in a long series of injustices against Quebec. According to Maclean's magazine, "One fearful federalist called Ottawa's decision to send the question to the Supreme Court the biggest error of the century."

When the ruling was finally handed down on August 20, 1998, it became apparent that the Court's key findings contained something to please
almost everyone, but offered a questionable solution. Prime Minister Jean Chrétien said, "The Court has well served all Canadians by bringing clarity to certain fundamental rules, which must guide our democratic life, even in dealing with the most difficult questions." Just a few weeks before, Lucien Bouchard expressed publicly his indignation of the approaching Supreme Court ruling, but then he too embraced the Court's decision. Bouchard said, "The Justices accepted what the sovereignists have been saying for 30 years: a winning referendum would be democratically legitimate, and Canada would have to recognize that legitimacy." [The Court] has eliminated any uncertainty that Quebecers had.

While the separatist and federalist forces debated the ruling, the words of the Supreme Court justices were of paramount, historic importance. The Court had ruled that it would be illegal under both Canadian and international law for Quebec to declare independence unilaterally. It also said, however, that a referendum is a legitimate way to measure the public's desire for constitutional change, and if Quebecers indicated they wanted out of Canada in a referendum, the rest of the country would be obliged to negotiate in good faith. It also said that a referendum on Quebec secession would require a clear majority voting "Yes" in response to a clear question.

Following the ruling, the unity debate once again took on a new dimension. People speculated about a possible early Quebec election, another referendum, and about future constitutional amendments. While there was uncertainty about many of these issues, it seemed there was agreement on one important principle: the Court's judgment gave clarity and meaning to the old debate. As Osgoode Hall Law School constitutional expert Brian Slattery noted, "Until now we didn't have a goal line, we didn't have side lines, and we didn't even have an arena. What the Supreme Court has done is clarify the ground rules."

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For the most part, the rules of our society are defined in legal and political terms. The Supreme Court of Canada plays an important legal role: its judgments are binding on all other Canadian courts and fundamental to enforcing the rule of law as it is integrated into Canadian society. As the highest court in Canada, it is the final general court of appeal and the last judicial resort for all litigants. Under the authority of the Constitution Act, 1867, Parliament created the Supreme Court of Canada, and since then its role has evolved considerably. Today the Supreme Court is a general court of appeal and has jurisdiction to entertain appeals in all areas of law. The Court also hears references—important questions of law that are "referred" to it such as the constitutionality or interpretation of federal or provincial legislation, or the determining of the division of powers between the federal and provincial levels of government. All these are fundamental to the Canadian federal system.

The various law courts, however, are not the only means by which Canadians clarify and define the rules of society. A very large part of rule-making is undertaken by our elected politicians, who create and amend laws, negotiate new powers, and redefine relationships between levels of government. For example, Canadian politicians in the past have negotiated (unsuccessful) agreements for a new relationship with Quebec: the Meech Lake Accord, the Charlottetown Accord. They have also proposed amendments to the Constitution, for example to recognize the uniqueness of Quebec (the Calgary Agreement).

An examination of this latest Supreme Court reference illustrates very clearly both of these two guiding principles of rule-making. The Court has acknowledged that the question of Quebec secession is as much a legal one as it is a political one. At the very least, the Court's distinction
has clarified the ground rules for Quebec secession.

A Question For Lawyers or Politicians?
As a class, discuss what the terms legal and political mean to you. Brainstorm a list of characteristics that illustrate both these terms. Integrate your ideas with dictionary definitions.

On the Evidence
As you view this News and Review report, record specific examples of events, statements, or actions that illustrate the terms legal and political. What is your first reaction in terms of whether the issue of Quebec secession should be decided by the courts or by the politicians? Is it principally a legal or a political question? Record your answers and then revisit them once you have studied this story in more depth.

Reporting from the Supreme Court
1. As a journalist, summarize for the Canadian public the following: (a) According to the Court ruling, what are the new ground rules for Quebec secession? (b) On what parts of the ruling do the federalists and separatist forces agree or disagree?

2. As an editorial writer, express verbally or in writing your opinion as to whether this Supreme Court reference has changed the nature of the debate on Quebec secession. Have either the federalists or separatists gained the upper hand or lost ground because of the ruling?

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The Terms of Reference

When the Government of Canada announced that it would initiate a reference to the Supreme Court of Canada, the Department of Justice issued what is called a "backgrounder" to answer some of the commonly asked questions about the scope of the reference and the nature of the process. Below is a backgrounder similar to the one issued by the Department of Justice.

What Is A Reference?
A reference is a procedure by which the federal government refers legal or factual questions it considers important to the Supreme Court of Canada to hear and consider. Section 53 of the Supreme Court Act gives the power to the Government to refer questions to the Court, notably concerning:

- the interpretation of the Constitution Acts
- the constitutionality or interpretation of any federal or provincial legislation
- the powers of the Parliament of Canada, or of the legislatures of the provinces, or of the federal or provincial governments.

Where a reference is made to the Court, the Court hears and considers the questions referred, answers the questions, and gives its opinion and its reasons for the answers.

Is A Reference Unusual?
While references are not considered unusual they are considered a special procedure that is used sparingly. There have been 74 references by the federal government to the Supreme Court since the first one in 1892. The most recent have been the Ng Extradition Reference (1991), the David Milgaard Conviction Reference (1991), and the Quebec Sales Tax Reference (1994). The most important reference
The 1981 patriation case was the case until now was the 1981 patriation case. The Liberal government of Pierre Trudeau, acting without input from the provinces, drafted a new Constitution with a new Charter of Rights. Objecting to this unilateral action, eight provinces joined together and referred questions on the legality of the proposed constitutional changes in a reference to the Supreme Court. Eventually the Court ruled that there was a convention requiring substantial provincial consent in such matters, but the federal government was not legally obliged to follow this convention.

**Is the Supreme Court's Judgment Binding?**

Lawyers and constitutional experts disagree on this question. Some maintain that references are merely advisory opinions and that governments may choose to disregard the advice. They say no one may ask the Court to issue an order forcing governments to follow the advice. In contrast, the Department of Justice states, "The Court issues an advisory opinion in the form of a judgment. As a legal pronouncement from the highest court in the land, it has always been treated as binding." However, despite this statement by the Department of Justice, other legal experts still dispute the assumption that a reference is binding.

**What Is This Case About?**

Quite simply, although the implications of course are enormous, this case is about the rules by which Quebec could become legally separate from Canada.

**Why Did the Federal Government Refer This Case to the Court?**

Political analysts see this reference as the centrepiece of Ottawa's "get tough" or Plan B strategy to convince sovereignists that leaving Canada would have serious economic and legal consequences. This is in contrast to Plan A, which has traditionally focused on amending the Constitution to recognize Quebec's uniqueness and therefore to diminish calls for separation.
Indicates material appropriate or adaptable for younger viewers.
When the Supreme Court ruling was released on August 20, 1998, the Attorney General of Canada emphasized that it was particularly important to review the legislative, political, and legal events that brought about this reference decision.

As you examine the chronology of events outlined below, identify the principal factors that in your opinion resulted in this important reference being brought to the Supreme Court. In your opinion, is there one decisive factor that precipitated the reference?

**December 6, 1994** The Government of Quebec tables a draft bill entitled "An Act respecting the sovereignty of Quebec." As indicated in the explanatory notes of the bill, the intent of the legislation is "to settle definitively the constitutional problem that has been confronting Quebec for several generations" and for Quebec to become a "sovereign country."

**June 12, 1995** The leaders of the Parti Québécois, Bloc Québécois, and Action Démocratique sign an agreement outlining their ideas for the sovereignty of Quebec. The agreement establishes the following:

"Following a Yes' victory in the referendum, the National Assembly, on the one hand, will be empowered to proclaim the sovereignty of Quebec, and the government, on the other hand, will be bound to propose to Canada a treaty on a new economic and political partnership [and the] negotiations will not exceed one year, unless the National Assembly decides otherwise. If the negotiations prove to be fruitless, the National Assembly will be empowered to declare the sovereignty of Quebec without further delay."
August 10, 1995 Federalist lawyer Guy Bertrand files an action for a declaratory judgment—a judgment that will eventually establish the Quebec government's legal right to proceed with the draft bill. In addition, Bertrand requests a permanent injunction challenging the constitutional validity of the draft bill and, more specifically, the Quebec government's proposed process for "accession to sovereignty."

September 7, 1995 The Quebec government introduces Bill 1, "An Act respecting the future of Quebec."

September 8, 1995 Mr. Justice Lesage of the Superior Court of Quebec renders his judgment in the Bertrand case. While refusing to grant an injunction against the holding of the referendum, he issues a declaratory judgment on Bill 1, establishing the powers Bill 1 confers on the National Assembly. The judge states that Bill 1 "would grant the National Assembly of Quebec the power to proclaim that Quebec will become a sovereign country without the need to follow the amending procedure provided for in Part V of the Constitution Act, 1982." The judge states that this constitutes "a serious threat to the rights and freedoms of the plaintiff granted by the Canadian Charter of Rights and Freedoms." The judge rules, "All of the actions taken by the Quebec Government, and the procedure stated in the draft bill, indicate that the government, through the Premier and other Cabinet Ministers, has undertaken, on behalf of Quebec, to proceed with a unilateral declaration of independence and to obtain Quebec's recognition as a state distinct from Canada. It is manifest, if not expressly stated, that the Quebec Government has no intention of resorting to the amending formula in the Constitution to accomplish the secession of Quebec. In this regard, the Quebec Government is giving itself a mandate that the Constitution of Canada does not confer on it. The actions taken by the Government of Quebec in view of the secession of Quebec are a repudiation of the Constitution of Canada."

October 30, 1995 In a provincial referendum, the electors of Quebec are asked whether they agree "that Quebec should become sovereign, after having made a formal offer to Canada for a new Economic and Political Partnership, within the scope of the Bill respecting the future of Quebec and of the agreement signed on June 12, 1995." On the same day, the deputy premier of Quebec and Minister of International Affairs, Immigration and Cultural Communities, Bernard Landry, sends letters to representatives of various foreign countries commenting upon the process leading up to the referendum and asking that their countries publicly take note of the referendum results. The referendum result is 50.58 percent for the "No" side and 49.42 per cent for the "Yes" side.

September 26, 1996 Minister of Justice Allan Rock announces that the federal government will submit a reference to the Supreme Court of Canada concerning certain questions relating to the unilateral secession
of Quebec from Canada. In explaining the reasons that motivated the Government of Canada to seek the Supreme Court reference Rock writes:

"The Governments of Quebec and of Canada are in disagreement over a process so serious that it could lead to the secession of Quebec. Other provincial governments have also stated points of view that are different from that of the Government of Quebec. The Government of Quebec submits that it can determine by itself alone the process of secession and that it is supported in this by international law. The federal government submits that international law does not give this power to the Government of Quebec and that a referendum does not create, as a matter of law, an automatic right of secession. There are above all which is even more dangerous profound disagreements between citizens on the whole question as to which process to follow. As responsible governments, we have the duty to ensure that this crucial question is clarified. We need to know the state of Canadian domestic law, of international law, and which of them takes priority. . . ."

September 30, 1996 The Governor in Council of the federal government formally submits the reference questions to the Supreme Court. The text of the Order in Council read as follows:

Whereas the Government of Quebec has expressed its view that the National Assembly or government of that province has the right to cause Quebec to secede from Canada unilaterally; Whereas the Government of Quebec has expressed its view that this right to cause Quebec to secede unilaterally may be acquired in a referendum; Whereas many Quebecers and other Canadians are uncertain about the constitutional and international situation in the event of a unilateral declaration of independence by the Government of Quebec; Whereas principles of self-determination, popular will, democratic rights and fundamental freedoms, and the rule of law, have been raised in many contexts in relation to the secession of Quebec from Canada; And whereas the Government of Canada sees fit to refer the matter to the Supreme Court of Canada; Therefore, His Excellency the Governor in Council, on the recommendation of the Minister of Justice, pursuant to section 53 of the Supreme Court Act, hereby submits to the Supreme Court of Canada for hearing and consideration the following questions:

1. Under the Constitution of Canada, can the National Assembly, legislature or Government of Quebec effect the secession of Quebec from Canada unilaterally?

2. Does international law give the National Assembly, legislature or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally? In this regard, is there a right to self-determination
under international law that would give the National Assembly, legislature or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally?

3. In the event of a conflict between domestic and international law on the right of the National Assembly, legislature or Government of Quebec to effect the secession of Quebec from Canada unilaterally, which would take precedence in Canada?

Follow-up Discussion
1. What are the key factors that brought about this Supreme Court reference?

2. According to the Minister of Justice, what are the reasons that motivated the Government of Canada to seek the Supreme Court reference?

3. As a class, examine the three questions above submitted to the Court.
   (a) Determine what each question is in fact asking. Using simple language restate the questions so there is agreement among class members as to the meaning and intent of the questions.
   (b) Suggest what rights and issues must be considered when answering each question.
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Three Historic Questions

This Supreme Court reference consists of three separate questions referred to it by the Government of Canada. For each question, the Court rendered a judgment and also gave a rationale with supporting arguments. In the next few pages you will find the three reference questions and excerpts and paraphrased material from the ruling by the Supreme Court for each.

Your Task

The class will be divided into three groups. Each group will be assigned a different reference question. In your group discuss the meaning and impact of the question you have been assigned regarding the debate on Quebec secession. Consider to what extent the Court's ruling may have changed the nature of the debate. Have either the federalists or separatists gained the upper hand or lost ground because of the ruling? Choose a spokesperson who will report your group's findings to the rest of the class. (This activity can be conducted so that the groups rotate and examine each question in turn or it can be done as a "jigsaw" activity.)

The First Question

The Question

Under the Constitution of Canada, can the National Assembly, legislature or Government of Quebec effect the secession of Quebec from Canada unilaterally?

The Judgment

The Supreme Court ruled that the answer to this question is "No." It said that no institution of the province of Quebec can, under the Constitution of Canada, unilaterally effect the secession of Quebec from Canada.
The Rationale
The Court outlined the following constitutional principles as important starting points for analyzing the issues raised in this particular reference question:

"The Constitution of Canada is the touchstone according to which the legality of any proposed unilateral secession must be assessed under Canadian law."

It is the Constitution that establishes Quebec as a province of Canada. The Constitution establishes the governing institutions of the province of Quebec, including its legislative assembly. It is the Constitution that grants powers to and is the source of legal authority of the legislative and executive institutions of the Government of Quebec, to be exercised only within the limits prescribed by the Constitution.

The Constitution contains a comprehensive set of procedures by which it may be amended, and sets out the circumstances in which a province, including the province of Quebec, may amend the Constitution of Canada unilaterally.

"The rule of law is a pillar of the Canadian constitutional framework that must be safeguarded and respected in all circumstances."

"The courts, as the guardians of the Constitution and ultimate defenders of the rule of law, have a duty to ensure the integrity of Canada's constitutional structure."

"Canada as a federal state is a fundamental element of its Constitution that guides the exercise of governmental authority and restricts the capacity for unilateral governmental action."

Excerpt from the "Summary of Conclusions" by the Supreme Court
"... Quebec could not, despite a clear referendum result, purport to invoke a right of self-determination to dictate the terms of a proposed secession to the other parties to the federation. The democratic vote, by however strong a majority, would have no legal effect on its own and could not push aside the principles of federalism and the rule of law, the rights of individuals and minorities, or the operation of democracy in the other provinces or in Canada as a whole. Democratic rights under the Constitution cannot be divorced from constitutional obligations. Nor, however, can the reverse proposition be accepted. The continued existence and operation of the Canadian constitutional order could not be indifferent to a clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada. The other provinces and the federal government would have no basis to deny the right of the Government of Quebec to pursue secession, should a clear majority of the people of Quebec choose that goal, so long as in doing so, Quebec respects the rights of others. The negotiations that followed such a vote would address the potential act of secession as well as its possible terms should in fact secession proceed. There would be no conclusions..."
predetermined by law on any issue. Negotiations would need to address the interests of the other provinces, the federal government, Quebec and indeed the rights of all Canadians both within and outside Quebec, and specifically the rights of minorities. No one suggests that it would be an easy set of negotiations.

"... The task of the Court has been to clarify the legal framework within which political decisions are to be taken "under the Constitution," not to usurp the prerogatives of the political forces that operate within that framework. The obligations we have identified are binding obligations under the Constitution of Canada. However, it will be for the political actors to determine what constitutes a clear majority on a clear question' in the circumstances under which a future referendum vote may be taken. Equally, in the event of demonstrated majority support for Quebec secession, the content and process of the negotiations will be for the political actors to settle. The reconciliation of the various legitimate constitutional interests is necessarily committed to the political rather than the judicial realm precisely because that reconciliation can only be achieved through the give and take of political negotiations. To the extent issues addressed in the course of negotiation are political, the courts, appreciating their proper role in the constitutional scheme, would have no supervisory role..."
The Second Question

The Question
Does international law give the National Assembly, legislature, or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally? In this regard, is there a right to self-determination under international law that would give the National Assembly, legislature, or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally?

The Judgment
The Supreme Court ruled that the answer to each part of this question is "No." International law does not give the National Assembly, legislature or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally.

The Rationale
The Court recognized that "an affirmative answer to this question has been supported on the basis of the recognized right to self-determination that belongs to all peoples.' The Court felt that "although much of the Quebec population certainly shares many of the characteristics of a people, it is not necessary to decide the people' issue because, whatever may be the correct determination of this issue in the context of Quebec, a right to secession only arises under the principle of self-determination of people at international law where a people' is governed as part of a colonial empire; where a people' is subject to alien subjugation, domination, or exploitation; and possibly where a people' is denied any meaningful exercise of its right to self-determination within the state of which it forms a part."
The Court ruled that Quebec does not meet the threshold of a colonial people or an oppressed people, nor could it be suggested that Quebecers have been denied meaningful access to government to pursue their political, economic, cultural, and social development.

The Court cited many different sources of international law that make reference to this issue of unilateral succession. One of the most important sources that formed the basis of this ruling was the 1966 Covenants on Human Rights. The Court indicated that they paid close attention to aboriginal interests if Quebec seceded. Since the right to unilateral secession does not exist, and since negotiations would have to take place, “aboriginal interests would have to be taken into account.”

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The Third Question

The Question
In the event of a conflict between domestic and international law on the right of the National Assembly, legislature, or Government of Quebec to effect the secession of Quebec from Canada unilaterally, which would take precedence in Canada?

The Judgment
The Court ruled that there is no conflict between domestic and international law. As determined under Questions One and Two, neither the Constitution of Canada nor international law provides the National Assembly, legislature, or Government of Quebec with the right to effect the secession of Quebec from Canada unilaterally. However, if there were such a conflict, the Court ruled that Canadian courts would be bound to apply domestic law in preference to international law.

The Rationale
The Court indicated that their task had been to clarify the legal framework within which political decisions are to be taken "under the Constitution" and "international law." It is not the Court's aim to exercise and encroach on the authority of the political forces that operate within this framework.

The Court acknowledged that the political actors will have to determine what constitutes "a clear majority on a clear question" in the circumstances under which a future referendum vote may be taken. In the event of "demonstrated majority support for Quebec secession," the content and process of the negotiations will be for the political actors to settle. The reconciliation of the various legitimate constitutional interests is dependent upon the political rather than the judicial realm precisely because that reconciliation can only be achieved through the give and take of political negotiations.
The Court recognized that although there is no right, under the Constitution or in international law, to unilateral secession, the possibility of an unconstitutional declaration of secession leading to a *de facto* secession could not be ruled out. The ultimate success of such a secession would be dependent upon recognition by the international community. The international community would consider the legality and legitimacy of secession having regard to, among other factors, the conduct of Quebec and Canada, in determining whether to grant or withhold recognition. If Quebec discarded its legitimate obligations—namely, the need to respect its partners, its minorities, the rule of law, and its democratic obligations—it "can potentially expect to be hindered by that disregard in achieving international recognition." The Court indicated that this did not mean that the secession itself would be considered legal, but they did concede that successful revolutions can in fact create legal entities.
Both separatists and federalists claimed victory following the Supreme Court's ruling. Political analysts said the Court helped the separatist forces by calling the separatist option legitimate and by potentially forcing the rest of Canada to negotiate secession after a clear "Yes" vote. Federalists took comfort in the illegality of unilateral secession and the Court's description of tough negotiations that would include the partition of Quebec's territory. The equivocal nature of the ruling was reinforced with language such as "illegal but legitimate," "no, but . . ." and "legal unconstitutional." Almost immediately after the Court ruling was given, it became apparent that the real debate was only beginning.

Interpreting A Ruling
As the highest court in the land, the Supreme Court gave a ruling. This obviously does not end the constitutional debate that has been going on for so long. Many groups and individuals continue to interpret the ruling.

In your focus groups, examine the interpretations below. For each of the three Questions read the interpretations given here and identify the exact point of contention. In your opinion what must happen in order that these differing interpretations be reconciled? Is it crucial that they be reconciled in order to end or resolve the debate over Quebec's possible secession?

What constitutes a clear referendum question?
"This is very important. And I quote, The referendum result, if it is to be taken as an expression of the democratic will, must be free of ambiguity, both in terms of the question asked and in terms of the support it generates. This means that the days of the astuces' [cleverness, shrewdness, and wit] of Mr. Parizeau and the winning questions' of Mr. Bouchard are over. For a referendum to have any legitimacy, the
question must be clear. And by clear, the Supreme Court does not refer to a question on some vague notion of partnership like the winning question of 1995. The Court refers specifically to the need for a question that provides, and I quote, the clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada."
— Prime Minister Jean Chrétien

"[On the requirement for a clear question and clear majority in a referendum] No problem with that we had clear questions both times [in the two previous referendums]. And 50 per cent plus one is a clear majority."
— Gilles Duceppe, Leader of the Bloc Québécois

**What constitutes a clear majority in a referendum victory?**

"The Supreme Court of Canada speaks of the need for an enhanced majority' in order to alter the fundamental balances of political power. In other words, the secession of a province is so fundamental that it requires more than a simple majority for the results of a referendum question on secession to have any legitimacy. According to the Court, there must be no ambiguity in the result."
— Prime Minister Jean Chrétien

"As for what constitutes a majority, the Court considers, as we do, that it has to be clear. But it describes such clarity using the word qualitative' rather than quantitative.' I quote the Court when it writes that We refer to a clear majority as a qualitative evaluation.' Meaning that it does not call into question the quantity of votes required to declare a Yes' victory. The judges are aware of the precedents in Canadian history, particularly that of Newfoundland, which joined Canada with a majority of 52 per cent. Any declaration, legal or political, declaring that a 50 + 1 result would be insufficient, would, in particular, call the Newfoundland vote into question."
— Quebec Premier Lucien Bouchard

**Under the Constitution of Canada, can the National Assembly, legislature, or Government of Quebec effect the secession of Quebec from Canada unilaterally?**

"The unilateral declaration of independence which the current Quebec government had in its back pocket before the last referendum is contrary to Canadian law and to the fundamental principles of democracy."
— Prime Minister Jean Chrétien

"The Court has confirmed what sovereignists have been saying for 30 years. The ruling will ease concerns of those Quebecers who were afraid to vote for sovereignty in 1995 because Ottawa said it wouldn't negotiate if the vote were successful. Next time, Quebecers can vote with certainty knowing that there will be negotiations."
— Quebec Premier Lucien Bouchard
Does international law give the National Assembly, legislature, or Government of Quebec the right to effect the secession of Quebec from Canada unilaterally?

"... But if the question were to be: does international law permit Quebec to declare its independence alone, the answer is Yes.' The Court spells it out in black and white. I quote: It is true that international law may well, depending on the circumstances, adapt to recognize a political and/or factual reality, regardless of the legality of the steps leading to its creation.' The Court goes further and adds, again I quote, It may be that a unilateral secession by Quebec would eventually be accorded legal status by Canada and by other States. . . ."

Quebec Premier Lucien Bouchard

"After reading the opinion of the Supreme Court, no one can not know that such an attempt at unilateral secession would have had no legal basis. International law gives you no right to effect independence unilaterally while ignoring the Canadian legal order." Stéphane Dion, Minister of Intergovernmental Affairs

**Will the borders and territory of a separate Quebec remain intact?**

"Rules of international law state that borders within a new sovereign country stay the same. You hold everything you have before. That contradicts the Supreme Court, which said it is unreasonable to suggest that our national existence, seamless in so many aspects, could be effortlessly separated along what are now the provincial boundaries of Quebec." Quebec Premier Lucien Bouchard

"You can't expect to wind up in negotiations with the same territory you have. I'm not the one saying this, the Supreme Court said it." Prime Minister Jean Chrétien
1. How has the Supreme Court ruling affected Canadian attitudes on Quebec secession? Visit the Web site of the Angus Reid polling firm at www.angusreid.com/press/index.html. Formulate questions based on the Angus Reid poll in order to survey informally 10 people. Compare your findings with those of the Angus Reid poll. In what ways are they the same or different? Bearing in mind that you have conducted an informal survey as opposed to a scientific data gathering, suggest how a scientific poll and an informal survey should be used. Why is it important to know the difference?

2. Using the Internet, you can research the history, purpose, and the many roles of the Supreme Court of Canada. You can access this information at www.scc-csc.gc.ca/services.html. Historic Supreme Court decisions can also be found at this site. Most importantly, go to this site and locate the primary source document of this historic reference decision.

3. On August 10, 1998, the Caribbean nation St. Kitts and Nevis held a referendum on the proposed secession of Nevis from St. Kitts. The question the voters of Nevis were asked was quite clear, "Do you approve of the Nevis secession bill and Nevis becoming an independent state separate from St. Kitts?" Sixty-two per cent of Nevians voted "Yes," but secession failed because approval required a two-thirds majority vote. Shortly after the Supreme Court reference decision, Prime Minister Jean Chrétien pointed to the Nevis referendum as an example of a clear referendum question and what constitutes a clear majority to bring about secession. What lessons can be learned from the St. Kitts
and Nevis example that will assist us in our understanding of the Quebec sovereignty issue? (You can examine this issue on the Internet at www.stkittsnevis.net/pmomedia.html.)

4. The Plan B strategy of the federal government to actively seek clarity on the issue of Quebec secession was not supported by all federalists. The strategy has been criticized for focusing the debate on the conditions through which Canada would break up rather than on working to foster the conditions on which Quebec could remain united within Canada. This latter approach is referred to as Plan A and has usually concentrated on making amendments to the Constitution that recognize the distinctiveness and uniqueness of Quebec. Regardless of your position on this issue, which plan and approach do you think is the more effective strategy for dealing with the issue of Quebec's secession? Research and debate in class the merits of these two positions.

5. Some political analysts have said that the Supreme Court's ruling "subjugates" Quebec because it reinforces the notion that Quebec's future will not be decided by the Quebec people alone, but by a veto of Ottawa and English Canada. The analysts say that the Court ruling runs the risk of being relegated to the status of just another cause of conflict in French-English relations. In your opinion, is this ruling in some way different, distinct, and set apart from past French-English relations issues?

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