



# INSIDE POLICY

THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

OCTOBER 2014

## Back in the Black

*Stanley Hartt examines  
Finance Minister Joe Oliver's  
options for dealing with  
the first surplus since 2007.*

*Also in this issue: Elaine Depow analyzes Canada's intellectual property regime; Ken Coates suggests a "problem-solver's movement," to examine issues involving Canada's Aboriginal community; Aurel Braun calls on the Canadian government to fortify its military presence in the Arctic; ER doctor Brett Belchetz on healthcare reform; the MLI-inspired debate over subsidies for biofuels rages on; Brian Lee Crowley comments on the Scottish referendum, the fight over who speaks for Islam and the federal government's complacency on military spending; and an excerpt from The Once and Future King, F.H. Buckley's examination of the American Constitution.*



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THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

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# Editor's message



After years of economic turmoil, Canada has found itself in the enviable situation of deciding how to handle that rarest of fiscal beasts, an expected budgetary surplus. The Commons Finance Committee is now consulting widely on how to take advantage of this opportunity. In this issue of *Inside Policy*, **Stanley Hartt** lays out the options available to Finance Minister Joe Oliver as he attempts to deliver the Harper government's first balanced budget since 2007. Hartt advises Canada not to blow

it all at once.

Also in this issue, **Elaine Depow** takes the federal government to task for a troublesome new intellectual property law, and MLI Senior Fellow **Ken Coates** says Canadians should get together to work for solutions rather than calling for another inquiry in the case of missing and murdered Aboriginal women.

While many in the U.K. are relieved that Scotland voted not to separate, **Brian Lee Crowley** explains why a simple majority vote in the September referendum would have been a terrible way to decide Scotland's fate. Crowley argues that the Yes side would not have had a strong mandate even if it squeaked past the 50 percent barrier.

While Canada joins the rest of the world in anxiously watching events in Ukraine, foreign policy expert **Aurel Braun** calls on the Canadian government to take steps to counter the Russian threat to our own interests. And **Brian Lee Crowley** argues that periods of relative global calm mustn't lull Canadians into neglecting our military.

In the latest instalment of MLI's Straight Talk Q&A series, MLI discusses medicare reform with **Dr. Brett Belchetz**, an ER physician who battles with the inefficiencies of Canada's medical system every day on the front lines.

In September, MLI hosted a launch of *The Once and Future King* by author **F.H. Buckley**. In an excerpt from the book, Buckley dispels a number of America's founding myths. He argues that Canada's democratic system is superior, contrary to the closely held beliefs of many on both sides of the border.

Finally, in June 2014, MLI published a paper by University of Guelph professors **Ross McKittrick** and **Douglas Auld** which made damning conclusions about the costs and benefits of Canadian programs for subsidizing the production of biofuels. The authors reported that if the primary goal was to reduce greenhouse gas emissions, these programs have been an expensive failure. The response by **W. Scott Thurlow** of the Canadian Renewable Fuels Association was swift, accusing the authors of errors and challenging the report's findings. Auld and McKittrick have defended their work, which was thoroughly peer reviewed according to MLI's standards, and which they steadfastly stand by. Readers can decide for themselves. The full exchange is reprinted in this issue.

*James Anderson, Managing Editor*

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# What to do with the balanced budget dividend

*Stanley Hartt reviews the options and pressures facing the federal government as it considers how to manage anticipated surpluses over the coming years. Hartt suggests that the governing Conservatives would be wise to keep in mind that the electorate is more likely to cast a vote for a party based on promises of what's to come than on past accomplishments.*

## *Stanley Hartt*

Six years after acknowledging in the 2009 federal budget that Canada would be forced into deficit by circumstances resulting from the Global Financial Crisis, the Department of Finance is making no secret of the fact that we may expect Budget 2015 to produce a modest budgetary surplus. It is natural to react like lottery winners, or the heirs of a long-lost but nevertheless beloved rich relative, by rubbing our hands in glee as we contemplate what to do with these unaccustomed and welcome riches.

But hold on a minute! If we learned nothing else from the recent experience of being driven offside by exogenous events not of

“*Not all problems facing governments are best addressed by immediate spending alone.*”

our doing, some prudent contemplation of the alternatives would be in order. The initial prize will be small enough that the range of options will be limited, but projections, barring unforeseen calamities or our own imprudence, are that our fiscal dividend will grow over the medium term, giving our government real and substantial choices.

On the menu might be tax cuts, debt reduction, augmented or new program expenditures, or combinations of the above. Let's consider the possibilities in order.

### 1. None of the Above

Governments, and the people who elect them, always begin an analysis of this kind by assuming that politicians are sent to Ottawa to spend and thus improve the lot of the governed, or, if redistribution is your bag, the lot of some of them. But if the maxim "good policy is good politics" holds true, there should be occasions when the voting public says "Wait a minute; there are a number of priorities already known to be in need of a solid rethink and a likely injection of substantial additional funds in the foreseeable future, and we ought to carefully consider our priorities over the next decade, beyond the electoral cycle and the term of the fiscal plan".

Think of the inadequacy of retirement savings as the baby boomers shuffle out of the formal workforce into retirement or "consultancies". The current hodge-podge retirement savings system consisting of RRSPs, TFSAs, Defined Benefit Pension Plans, Defined Contribution Pension Plans, CPP, OAS and GIS, supplemented by personal, non-tax-assisted, savings (often in the form of a principal residence) adds up to a sub-optimal aggregate savings rate and therefore a level of income in retirement that cannot sustain the accustomed prior lifestyle. Before throwing money at this problem (let alone "balkanizing" it with separate provincial retirement plans), wouldn't it be wise to embark on an in-depth study looking for potential restructuring solutions? Not all problems facing governments are best addressed by immediate spending alone.

The health care system continues to groan along as it grows as a proportion of provincial budgets. Wait-times in elective procedures are used as rationing tools. Technological

and pharmaceutical advances bloat the expenditure profile over time, to where our universal, single-payer system itself becomes imperilled. Why not consider addressing this long-term challenge with some thoughtful revamping, which may involve some myth-busting about what our system can and cannot be expected to deliver over the long-term?

There exists at all times what the Department of Finance refers to as a "pressures" list representing spending ideas from line departments, always vastly in excess of available resources, yet many, if not most, of them very good initiatives. But it is rare that any combination of these "programs-in-waiting" have the capacity for massive benefit to the common good that the two issues mentioned above, retirement savings and medical care, hold for Canadians if they can be rendered

sustainable. Why not take a breath and some time to identify our priorities for the fiscal dividend and not race into some short-term expedient that satisfies the syllogism "we must do something; this is something; let's do this".

It is true that, if not spent by the end of the fiscal year, all budgetary monies lapse and, by definition, are applied to reduce the national debt. So?

### 2. Tax Reductions

Economists will tell you that an across-the-board reduction in marginal tax rates will be a better way of delivering tax relief than targeted tax expenditures (either deductions or credits) designed to encourage a particular kind of activity. It is also more stimulative to the economy, as resources get allocated to where the after-tax return rewards the most efficient use of capital. The current government has opted to create a Christmas tree of tax relief baubles (labelled as "tax reductions", adding up, at last count, to 138 specific measures).

Of course, the cost of this pales beside the current elephant in the room, the long-anticipated "income splitting" for couples with children under the age of 18. Deferred until the deficit is eliminated (which is exactly what we are discussing here), the government's proposal would allow one partner to shift the tax

*It is true that, if not spent by the end of the fiscal year, all budgetary monies lapse and, by definition, are applied to reduce the national debt. So?*

burden on up to \$50,000 per year in taxable income to the other. While very expensive in relation to the expected surplus in the next budget, it falls miles short of the cost of the joint return, enshrined in US tax law as the policy reaction to a 1926 US Supreme Court decision which found that, under California's community of property regime, each spouse had an existing, present and real ownership interest in the other spouse's earnings, which brought about the ultimate income splitting for tax purposes.

On the assumption that keeping faith with promises to taxpayers is just as important as the predictability and perceived fairness of the regime as a whole, the government will likely allocate a good chunk of the predicted budgetary surplus to honouring this promise, though it might be hoped that design changes could be identified to make it marginally less costly while largely delivering the anticipated targeted relief.

After that, it might be that the tax system could well use a purging of the bells and whistles that have built up in it since the major tax reform initiative launched in 1988. In that instance, the elimination of most deductions and credits led to a huge reduction in marginal tax rates in both the personal and corporate systems, while remaining revenue neutral even before the commodity tax changes (which eliminated the outdated, leaky Manufacturer's Sales Tax and replaced it with a value added tax).

The government correctly boasts about what internationally-low marginal rates have done to benefit investment in Canada and a thoughtful re-examination of the entirety of our regime would be a timely thing to put in the window displaying a vision for a renewed mandate. Simplification of the tax system would be a natural by-product of such a review.

### 3. Debt Reduction

What the focus on debt reduction must not ignore is that it is usually not undertaken as a goal in itself, merely because a

cautious approach to fiscal management abhors owing money. Rather, reducing the debt should be seen as increasing the margin of manoeuvre for other government programs. At a time like the present, where interest rates are low by historical standards, the impact that service charges on the national debt have in crowding out spending on programs is not quite as perceptible as when interest rates are considerably higher, but debt service charges invariably infringe on a government's ability to choose among their other legislative priorities and to fund new initiatives. The benefits of parsimony are not limited to the comfort of knowing that the albatross around our necks is shrinking but include the restoration of the ability to govern. We should always look at the debt reduction option in this way, and never as austerity for austerity's sake.

*The benefits of parsimony are not limited to the comfort of knowing that the albatross around our necks is shrinking but include the restoration of the ability to govern.*

### 4. New Program Expenditures

The wish list is always long, and much of it is also good. But most programs don't come with a budgetary requirement that begins and ends in the year the program is launched. Programs have "tails", i.e. the continuing cost to the treasury of maintaining the program through its legislated life, or indefinitely. Remember the controversy over the "real" cost of those magnificent, state-of-the-



art military aircraft known as the CF-35? Expenditures must be profiled over many years lest their approval infringe on the budgetary space available for other, equally-desirable programs. Let us not be so quick to pounce on the announcement-of-the-moment imperative but rather make prudent and eyes-wide-open judgments about where our spending dollars should be allocated.

A strong case can be made for the use of “other people’s money” in the form of Public Private Partnerships to assist in the renewal and improvement of much-needed infrastructure. It may indeed cost more over the life of the asset in question to finance such projects at the borrowing cost of a private sector entity rather than at the lower cost of capital enjoyed by various levels of government, but the benefit of having the infrastructure project up and running years sooner than would otherwise be the case can easily overcome this greater cost through the contribution to growth and investment derived from improved social overhead capital. Canada has sufficient well-established precedents for such recognized forms of financing that it would hardly be breaking new ground if private capital were mobilized for spending on key priority projects rather than using tax or borrowed dollars.

New sources of revenue should also be considered to fund expenditures deemed immediate in priority and importance to the economy as a whole. Privatization of Crown corporations and assets should be considered where significant proceeds can be realized on the sale (or conversion to concessions) of assets the government does not need to own in order to provide public services. This journal has already published a strong piece (see Nicholas Hann, April 2014) demonstrating how the various airport authorities could be converted to commercial concessions with a huge one-time gain to governments without cannibalizing the public revenue stream currently derived from this source.

## Conclusion

The correct answer is, of course, a combination of all of the above, recognizing the impact that a decision in any of the cat-

egories listed will have on the others. A tax expenditure here and an announcement of a public works project there means less money to fix the social issues engendered by an aging population. But curbed enthusiasm and moderated restraint in embracing

any of the potential uses for our new-found freedom of action should be the watchword.

In case it has escaped the reader’s notice (which would be entirely the author’s fault for being less than crystal clear) there is a theme running through all the above recommendations, namely, that governments are not elected for what they have done but rather for what they propose to do in the future. One need look no further than the revered Sir Winston Churchill, who, having done a small thing called winning the Second World War for the British people, was turfed unceremoniously from office in favour of the Socialist Clement

Atlee on the basis of “what have you done for me lately”. Governments which seek election for multiple, repeated terms must offer a vision of the society they propose to build which corresponds to the concerns and interests of the electorate as they ponder the future. That is why most of the suggestions herein advocate careful examination of large, long-term issues facing the country and not a quick “let’s spend the inheritance” party.

The debate will doubtless continue as we get closer to the actual day on which we are delivered from the shroud of deficits into the sunshine of surpluses and choices. ✨

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# Canada needs to be smarter on Intellectual Property

## New trademark law widely panned by legal community

*Canadians have taken little notice of a key change to trademark law that the legal community fears will have chaotic results. By dropping the “use” requirement for registering a trademark, Canada has abandoned “more than 140 years of trademark jurisprudence and may invite a constitutional challenge”.*

***Elaine Depow***

Sometimes, the hard way is the only way to learn.

When you don't pay your dues at a private club, your name is posted to a black list for all the membership to see. When you don't pay your taxes, the bailiff comes knocking. And when you're a G8 country with a shameful intellectual property (IP) regime, the world will surely notice – and begin collections proceedings, so to speak.

In its annual Special 301 Report, the United States Trade Representative (USTR) details those countries with the worst IP performance. Developing countries almost always make the Watch List. What's surprising is that Canada has been on the Watch List since 1995, and was downgraded in 2001 to the Priority Watch List, the grouping that houses the worst IP offenders. Canada remains on the Watch List.

In recognition of its host country's humiliation, the US Embassy in Canada declared that, "Canada's relatively weak protection and enforcement of intellectual property rights (copyrights, trademarks, patents, and trade secrets) has attracted domestic and international attention."<sup>1</sup>

The irony, of course, is that Canada considers itself an economic leader and a centre of innovation, or so the rhetoric goes.

Canada took what initially seemed a productive step forward as its omnibus Bill C31, "Canada's Economic Action Plan Act 2014" received Royal Assent on June 19, 2014.<sup>1</sup>

### Going Global is "not so Nice"<sup>2</sup>

The new legislation laid the groundwork for Canada to finally stand alongside its global colleagues in such treaties as the Madrid Protocol, which secures international trademark registrations, and the Singapore Treaty which harmonizes international registration procedures.

Though acquiescence to Madrid and Singapore is considered both straightforward and inevitable, questions have swirled around Canada's participation in the Nice Classification, the standard most countries rely on to categorize goods and services for the registration of trademarks. Unlike Canada's 2012 *Copyright Modernization Law*, which former Industry Minister Christian Paradis hailed as the Government's commitment to, "modernize Canada's copyright legislation and strike the right balance between the needs of creators and users,"<sup>3</sup> the new legislation has ignited a brouhaha amongst Canadian IP lawyers regarding Part 6, Division 25, of the Trademarks Act. Buried deep within the bill's complexities is a worrying change to the critical concept of use.

1 <http://canada.usembassy.gov/key-reports/special-301-report-intellectual-property-rights.html>

2 Brian P. Issac Nice Classification of Trade-marks- Perhaps Not So Nice for Canadians June 25, 2014

3 Press Release Harper Government Delivers on Commitment to Modernize Canada's Copyright Laws <http://news.gc.ca/web/article-en.do?mthd=advSrch&crtr.page=1&cnid=683909&crtr>

4 Brian P. Issac Nice Classification of Trade-marks- Perhaps Not So Nice for Canadians June 25, 2014

*The new legislation has ignited a brouhaha amongst Canadian IP lawyers regarding Part 6, Division 25, of the Trademarks Act. Buried deep within the bill's complexities is a worrying change to the critical concept of use.*

Quite basically, the "not so Nice for Canadians act"<sup>4</sup> will eliminate the requirement that a mark be used elsewhere prior to its registration. Shifting to a non-use regime means that applicants will not be required to specify a date of first use in Canada, nor will it be incumbent on them to prove their intent to use. Further, applicants who propose to use their mark will not be required to file a declaration to use prior to obtaining registration.

### Becoming 'Use'-less: Canada's New Trademark Law

Just days before the bill became law, Allison McLean, editor of Osgoode Hall Law School's *IPilogue* declared that, "trademark law in Canada is poised for transmutation thanks to the 2014 Federal Budget of all things."<sup>5</sup> This 'transmutation'

will, effectively eliminate use, the clause proponents consider 'the core component' of Canadian trademark law.

Across the country, opponents of non-use have echoed the sentiment.

Daniel Bereskin of Bereskin & Parr, LLP has written extensively on the implications of Canada's shift to a non-use regime. Known across the legal community as the 'dean' of Canadian IP law, Bereskin's concerns resonate. "The changes undermine the foundation of our trademark law," Bereskin said. "They threaten to abandon more than 140 years of trademark jurisprudence and may invite a constitutional challenge."<sup>6</sup>

In practical terms, doing away with use means that money talks: anyone who can pay can register. Sheldon Burshtein of Blake, Cassels & Graydon LLP told the *Financial Post* that dropping the use clause would open the trademark registration playing field to anyone, regardless of whether the registrant has a legitimate commercial application in mind for the mark. "One of

5 <http://www.iposgoode.ca/2014/06/ch-ch-ch-ch-changes-coming-to-the-trade-marks-act/#sthash.3wmzoev9.dpuf>

6 Daniel Bereskin <http://business.financialpost.com/2014/04/16/canada-proposes-radical-change-to-trademark-law-lawyers-warn/>

the great advantages of the use requirement,” Burshstein noted, “is that it works against registering a trademark merely to blackmail an established franchise.”<sup>7</sup>

The IP Section of the Canadian Bar Association (CBA) expressed its dismay with the technicalities around removal of the use requirement and, significantly, the federal Government’s failure to invite consultation, in a letter to Senator Irving Gerstein, Chair of the Senate Banking, Trade and Commerce Committee, and David Sweet, MP, Chair of the House of Commons Industry, Science and Technology Committee. “In light of these problems,” the CBA wrote, “it is the view of the CBA Section that Part 6, Division 25 should be removed from Bill C31 and be the subject of detailed consideration and consultations with all interested parties. The CBA would welcome the opportunity to work collaboratively with the government to improve the law in this area.”<sup>8</sup> The Bar’s letter and similar such petitions did not sufficiently influence the government’s decision-making, as the bill has since made an uninterrupted journey to law-hood.

For critics, the logic is that Government cloaked its true intent in a celebration of enhanced conformity with international practices. Transitioning to a non-use regime will actually eliminate Canada’s alignment with the US on trademark practices; it will elevate cash-flow above the sanctity of an idea; it will foster a climate of uncertainty in terms of the selection and use of trademarks and trade names; it will set a negative precedent for failure to consult the professional community; it will invite an increase in

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‘trade-mark trolls’ – applicants who are able to register a mark, and enforce it under the Act without ever declaring use. And that’s just the icing. Bereskin has indicated that a constitutional challenge may be in order; “the issue is whether the proposed legislation

can be justified as a legitimate use of the federal government’s ‘trade and commerce’ power given that there is no trade or commerce involved in trademark registration in the absence of the use requirement.”<sup>9</sup>

### **Getting it Right...the Second Time Around**

Adding a non-use clause has created chaos amongst the IP community, whilst highlighting the Government’s knack for contradiction, both in terms of collaborative policy, and on the importance of helping small and medium sized businesses flourish.

Properly protecting IP is not something the Government can do alone – and Government knows better. In testing the limits of its power, Government has demonstrated a profound shortsightedness, by either overlooking potential consequences, or worse – acknowledging but ignoring them.

Although the bill is now a law, there is no clarity on when the new enforcements will kick-in, which means there’s still time. Justine Wiebe of Borden Ladner Gervais, LLP recommends that brand owners be proactive by requesting renewals now; actively applying to register trademarks now; and actively monitoring the trademark register.<sup>10</sup>

Eliminating the core of Canadian Trademark law was a faulty attempt at disproving the USTR’s concerns. Bettering Canada’s IP performance will require Government to actively seek the input and advice of other actors, because Government pulling the decision-making strings alone is never appropriate – nor is it productive. It is now incumbent upon the IP legal community – from the practicing lawyers to those who teach and write – to show leadership by taking their grievances to task, and reminding Canadians that they have the power to influence change. ✦

7 Sheldon Burshstein <http://business.financialpost.com/2014/04/16/canada-proposes-radical-change-to-trademark-law-lawyers-warn/>

8 CBA submission <http://www.cba.org/CBA/submissions/pdf/14-23-eng.pdf>

9 Daniel Bereskin <http://www.bereskinparr.com/Doc/id388>

10 Justine Wiebe, June 24, 2014 <http://www.mondaq.com/canada/x/322682/Trademark/Bill+Proposing+Significant+Changes+To+Canadian+Trademark+Law+Receives+Royal+Assent>

**Elaine Depow** is the founder of *Jungle Research + Public Affairs*, a PhD candidate in political communication and a policy advisor to hi-tech companies.



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# Canadians love to call for inquiries. Why not get together and make a difference?

*Rather than retreat to the time-worn idea of a national inquiry, Ken Coates suggests that we should start a “problem-solver’s movement,” involving community leaders, activists, professionals and the general public, designed to work with local Aboriginal groups to identify possible solutions to the crisis of murdered Aboriginal women.*

## **Ken Coates**

Critics of the Government of Canada have pushed hard for a federal inquiry into the shocking levels of violence against Aboriginal women, sparked by the recent murder of 15-year-old Tina Fontaine in Winnipeg. Superficially, the idea of an inquiry seems logical, particularly if such an investigation produced viable and sustainable solutions to an epidemic of violence directed at vulnerable women.

The inquiry route, however, is the wrong one for Canada and the wrong one for Aboriginal women, who absolutely deserve greater protection and who have to be saved from the scourge of violence across the country. Prime Minister Stephen Harper is wrong when he says that the issue is criminal in nature and not

“sociological.” There are countless studies that have documented the roots of violence against women and against Aboriginal women specifically, and these are profoundly social, cultural and economic in nature.

Canada has held many inquiries, commissions and Royal Commissions over the years. Some, like the MacDonald Commission on Canada’s economic prospects, played a crucial role in leading Canada toward free trade. Others elevated issues from the background and made them national news. The LeDain commission on drugs, the Bilingualism and Biculturalism Commission, and the LaMarsh study on the status of women all sent a bright spotlight into areas of public policy largely shielded

from public view. Aboriginal people had a Royal Commission devoted to them, resulting in a voluminous report published in 1996 that captured the complexity of indigenous issues in Canada but failed to capture the public or the political imagination.

What makes the matter of murdered Aboriginal women somewhat different is that the immediate and contextual causes are quite well-known. Most murders of Aboriginal women – of all women, sadly – involve family members or other people close to the victim. The causes are painfully familiar: drug and alcohol abuse, sustained domestic violence, and the tragic lifestyles of young women forced into prostitution and hard drug use. We know, in general, who kills Aboriginal women, why the murders occur, and the family and social context in which the violence occurred.

We also know the broader social and historical environment that created the intense poverty, marginalization, and social crisis. We are much less frank in addressing systematic racism – a painful and real experience for far too many Aboriginal Canadians – but most will acknowledge that it is there.

It is true that, despite a firm grasp on the nature of the problem, no one knows precisely what to do. From the 1970s on, the then Department of Indian Affairs tried to address social problems with more programs and greater government engagement. While there were some improvements, in many ways the active intervention by government did not solve problems that were more social, cultural and economic in nature. The current government is preoccupied with economic development, believing that jobs and prosperity – along with modern agreements and Aboriginal self-government – will address the social and community ills over time. We can see the improvements economic development has brought, with the James Bay Cree, Meadow Lake, Onion Lake, Osoyoos, the Tahltan, Carcross-Tagish, Inuvialuit and many other groups. But even here, the path is uncertain and there is no assurance of uniform success.

All the while, Indigenous women – and Aboriginal men – continue to die at an alarming pace and often in gruesome and awful ways.

Public policy is not the only lever available to Canadians. The country at large can get engaged, with and at the request of First Nations. Unions, churches, community organizations, philanthro-

pists and others can get involved directly, as former Prime Minister Paul Martin continues to do, as Aditya Jha has done with his private foundation, and as another initiative by Chinese-Canadian leaders has the potential to do. Most of the real problems facing Aboriginal people in Canada did not begin with government policy and will not be solved by policy actions. The crisis began with racial stereotypes, discrimination, hostility and cultural disdain, all of which fed into government actions over time. Canadians – with their governments following rather than leading – have to do more.

So why don't we Canadians do something different, instead of retreating to the time-worn idea of

national inquiry, which is rather like punting the ball deep into the political wilderness. If there ever was an opportunity for a citizens' mobilization, where Aboriginal and non-Aboriginal people came together to focus on solutions – not causes – this is it. There is a remarkable model before us, provided by the founders of Idle No More, who showed that peaceful engagement focused on consciousness raising could sweep the country and mobilize tens of thousands of Aboriginal people. Why not start a "problem-solver's movement," involving community leaders, activists, professionals and the general public, designed to work with local Aboriginal groups to identify possible solutions to the crisis of murdered Aboriginal women.

Canadians are good at talking – and we are better at finger-pointing. We are much less accomplished at problem-solving and figuring out real world solutions to serious and sustained social problems. The murders of hundreds of Aboriginal women is a national disgrace. Let's not assume that government has all of the answers. Let's transform the tragedies into a search for workable solutions and, even more importantly, reconciliation between Indigenous peoples and all other Canadians. ✦

*Most of the real problems facing Aboriginal people in Canada did not begin with government policy and will not be solved by policy actions.*

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## Simple majority would have been a terrible way to decide Scotland's fate

*On September 18, 55.3 percent of voters in Scotland's independence referendum said no to separation from the United Kingdom. The vote fell well short of the majority threshold the Yes side argued would give them authority to negotiate secession. Here, in a Globe and Mail column written prior to the results being released, MLI Managing Director Brian Lee Crowley argues that the Yes side would not have had a strong mandate even if it squeaked past the 50 percent barrier.*

***Brian Lee Crowley***

Readers of this column have an advantage over me: they will read it after the results are in on Scotland's independence referendum. The outcome is irrelevant, however, because I want to talk about how very wrong the rules are under which it is being carried out: wrong politically, economically and morally.

Decisions to break up a country are momentous, not least because they throw everything into question. In Scotland's case, for example, no one can state with certainty what currency they will use, what it will be worth, who will enforce contracts and

under what law they will be interpreted. The value of houses, university degrees and retirement savings will all be subject to far greater uncertainty than they were when the legal and policy framework was known. Who knows whether the new country will be part of the European Union and under what conditions, what its debt and tax rates will be and perhaps most crucially how its relations with its newly foreign and spurned neighbour, the UK rump state, will be conducted.

Generations of decisions have been made on both sides of

the border premised on knowing the answers to these questions and many others. One of the jobs of government is to help create islands of reasonable certainty in a sea of change and uncertainty, by allowing people to treat these many questions as settled. Moreover, decisions like this are not like electing governments every few years. Because you can change governments you don't like, and governments exist within a framework of rules and institutions that constrain their power, the stakes involved in voting in one party over another are relatively minor and mistakes easily corrected.

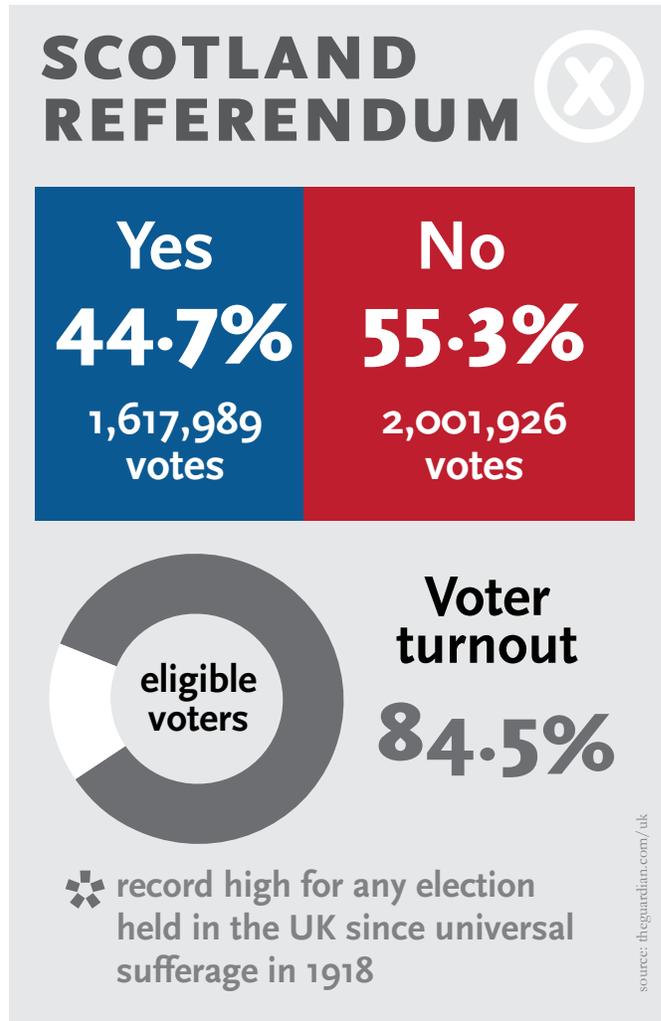
Not so a decision to secede. As former British prime minister Gordon Brown rightly says, this is a choice the Scots must live with for a long time, likely forever.

Moreover the costs of the break-up are not borne exclusively by those who favour it, but also by those who oppose it (I'm not even considering here the undeniable costs to other non-Scottish UK citizens who, wrongly, have no say at all). They are borne, too, by future generations of Scots, who are not here to vote. Those future consequences will be considerable. Like it or not, decisions taken in the past like whether to invest and innovate in Scotland, buy a house or create jobs are already taken and can only be undone at great cost, if at all. Decisions that have not yet been taken are a wholly different matter. The great enemy of investment and growth is uncertainty. Just look at the consequences for Quebec of nearly half a century of separation anxiety and the devastating losses of potential population and wealth that province has undergone.

Thus the institutional status quo has a strong presumption in its favour. To put it the other way around, to sunder the status quo should require a very high degree of agreement. The "decision rule" in Thursday's vote of 50 percent plus one of those voting doesn't even come close to meeting that standard, any more than it did in Quebec's two referendums on independence.

True, telling the Scots after a bare majority Yes vote that they failed to meet the standard for breaking up the country is a recipe for conflict, although I'd wager the conflict will be far worse if Scotland tries to secede on so frail a democratic mandate. On the other hand, setting the decision bar too low and thereby downplaying the consequences of the decision encourages separation fantasies, distorting that very decision. And as we know from bitter experience in Quebec, it also encourages the secessionists to try over and over again.

These are all reasons why even less important decisions, such as constitutional amendments, often require far more than simple majorities of voters. In Canada's case you need the agreement of



parliament, plus two-thirds of the provinces and those provinces must represent 50 percent of the population. That's a triple majority. The Supreme Court ruled that a Quebec referendum would only trigger negotiations if it got a "clear" majority, not a bare one. Such high thresholds properly reflect the seriousness of the decision.

By a rhetorical sleight of hand, secessionists will certainly proclaim that a victory of 50 percent plus 1 of those voting means "the Scots" have voted for independence. It will mean nothing of the sort. It means they will be deeply divided, not united, over an irreversible decision of vast consequence taken under rules that trivialize the stakes. Scotland the Brave indeed. ✦

**Brian Lee Crowley** is the Managing Director of the Macdonald-Laurier Institute, an independent non-partisan public policy think tank in Ottawa: [macdonaldlaurier.ca](http://macdonaldlaurier.ca).



Source: Master Seaman Peter Reed / combatamen.forces.gc.ca

# North American Defence, Arctic Security, and Russian Imperial Delusions

*Canadians must understand that Russia's ambitions aren't limited to making trouble in Ukraine. The following MLI commentary is based on testimony before the Standing Committee on National Defence, House of Commons, Canada, May 8, 2014.*

***Aurel Braun***

## **Introduction**

**N**orth American defence, Arctic security, and Russian imperial delusions. These are large interlocking topics and my purpose here is to provide context, linkages, and a broad analysis with some key specifics. In the space permitted the assessment cannot be comprehensive but I will examine some of the crucial actual and potential threats to Canada and possible ways to understand, counter, or at least mitigate these.

At first blush it would seem that Canada has a very

effective triple layer of protection to guarantee its interests and sovereignty. The North Atlantic Treaty Organization (NATO), an alliance of democracies that has enjoyed remarkable historical longevity, is one of these layers. Second, the North American Aerospace Defense Command (NORAD) adds to the transatlantic Alliance a defence agreement with Washington, one that has the dual Canadian/US goal of assuring effective aerospace warning, air sovereignty, and the overall defence of North America. Third, Canada,

as a successful modern state and a member of the G7, has its own significant military capabilities as well as great economic potential.

Consequently it would seem that there would be little reason to be concerned about our security, and much less to be alarmed. And it is certainly not my intent to sound an alarm but rather to try to provide a realistic assessment of how best to guarantee our national interest and security in a volatile international environment. It is also worth noting that despite such volatility we are not in a new Cold War and the world democracies are not facing a massive military threat from a superpower with tens of thousands of tanks and vast number of aircraft ready to march across Europe or intent on devastating North American cities in an ideologically driven war fought for the purpose of imposing some universalistic doctrine. Further, as noted, it is not my purpose here to assess all threats or disputes that Canada faces in terms of its security or even those in the north and specifically the Arctic. Rather, as security cannot be delinked from certain key developments and threats in other parts of the international system, a significant degree of my focus will be on Russian imperial ambitions that have been most starkly revealed in Ukraine, but which have seminal implications for North American defence, Arctic security, and Canadian sovereignty.

### **Russian Ambitions**

Threat perceptions invariably involve a reading of the intent of actual and possible opponents or enemies, and not just an assessment of their capabilities. Since Mr. Putin returned as President of Russia in 2012, but particularly in the past year, Russian claims to the Arctic have multiplied. At one level this ties in with Mr. Putin's strenuous efforts to build up Russia's military might with enormous increases in defence expenditures but it also reflects a larger "Putinite" worldview as well as the Kremlin's domestic political considerations. Already in 2007 Russia made a rather quixotic claim to vast parts of the Arctic seabed when it planted a small platinum Russian flag on the ocean floor at the North Pole using a deep-

diving small submarine. More recently, Mr. Putin has instructed his military to pay strong attention to the Arctic, declaring that Russia required "every lever for the protection of its security and national interests there." Further the Kremlin has begun to rapidly

reopen and strengthen old military bases in the Arctic and in 2013 Mr. Putin ordered the creation of a new strategic military command in the Arctic by the end of 2014 and in April 2014 he declared specifically that Russia will build a unified network of naval facilities on its Arctic territories to host advanced warships and submarines as part of a program "to boost protection of the country's interests and borders in the region".

It is also worth noting that the Arctic, which has a very fragile and difficult eco-system, is generally believed to contain as much as one quarter of the world's undiscovered energy resources and that Russia has been far ahead of other members of the Arctic Council (comprised of eight states) in exploring in the region. A 2009 report by the US Energy Information Administration, *Arctic Oil and Natural Gas Potential*, shows that of the nearly 60 large oil and natural gas fields discovered in the Arctic, 43 are in Russia, 11 in Canada, six in Alaska, and one in Norway.

In a sense, given the extreme dependence of the Russian economy on energy and particularly hydrocarbon exports, it is not surprising that Mr. Putin and his government have made a military buildup in the Arctic a strategic priority. Energy is in Mr. Putin's view one of the very best cards that he has to play. He is playing this card however within a larger Russian policy game that is based on dangerous imperial delusions, namely of superpower restoration via expansion, empire, and manoeuvre.

It is crucial to appreciate though that Russia today is definitely not a superpower (with the sole exception of nuclear weapons) and it is highly unlikely that it ever will be one. It has a GDP that in nominal terms is only that of Italy's (and just slightly larger than that of Canada) and one that on a per capita basis is comparable to that of Barbados. It faces enormously difficult demographic problems with a rapidly aging population among its approximately 143 million



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citizens. Moscow is also confronting seemingly intractable ethnic issues with tremendous tensions in the Caucasus. Further, Russia is plagued by a now stagnant uni-dimensional economy that is in desperate need of fundamental structural reform if it is to be competitive in a modern international system. With an economy so utterly dependant on resources, which, again, also comprise the vast majority of its exports (the remainder coming largely from the sale of weapons, particularly to rogue states), Moscow, as noted, is very keen on increasing the extraction of hydrocarbons, for that would bring both enhanced revenue and international leverage.

Mr. Putin of course does have an alternative to pursuing an imperial, energy-based “Greater Russia”. The Kremlin could engage in deep structural reform and political transformation based on the genuine rule of law and respect of rights. Former Communist states such as Poland have successfully done so. Russian Prime Minister Dmitry Medvedev and others have repeatedly advocated drastically transforming what they themselves call “the uni-dimensional economy”. Mr. Putin himself has repeatedly proclaimed his fealty to the rule of law and the vast demonstrations across Russia in the wake of parliamentary and presidential elections in 2011 and 2012 respectively have shown that millions of Russians not only aspire to but demand such a transformation.

The reality of Russia, however, is not that of a reforming state but rather a polity with, as noted, an increasingly stagnant economy, ever-growing sharp restrictions on human rights, and rule by a cynical kleptocracy. Transparency International rightly ranks the country as one of the most corrupt in the world. Instead of real change, what Mr. Putin has pursued is a kind of “political magical realism” that in some ways is similar to the “magical realism” used in literature; however here instead of a clever literary device we have delusory politics and policies. There is too frequently an evasion of rational political and economic policy in favour of political

fantasy and a ludicrous Putinite personality cult resulting in a political order that is both repressive and risible. Yet, it is important here to also appreciate that characterizing Mr. Putin’s behaviour as “delusory” does not imply some irreversible clinical pathology but evinces instead a political indulgence fueled by a still-disorganized opposition at home and, quite significantly, by feckless responses to Russian aggressiveness abroad.

What we have seen in the Russian annexation of Crimea and continuing threats against the rest of Ukraine (General Philip Breedlove, NATO’s Supreme Allied Commander in Europe, noted on September 20, 2014 that the truce that was agreed to by the Ukrainian government and the Russia-controlled rebels on September 5, 2014 did not alter the bad

situation in Ukraine and that there was a ceasefire “in name only”) are thus part of delusory politics rather than a safeguarding of national interests which the Kremlin could best do by creating a modern and successful state along the lines of Japan or Germany. Instead, Mr. Putin and the *siloviki* (former and current members of the security apparatus) “yes-chorus” that support and encourage him have decided on a dangerous shortcut to legitimacy – a kind of “political drug-induced” euphoria. Mr. Putin’s drug of choice is ultranationalism, designed to keep in power the Russian kleptocracy. Russian aggression in Ukraine, which is an expression of that ultranationalism, has, in the short-term, brought an enormous rise in public support for Mr. Putin (at over 80 percent) and has created an illusion of Russia as a central player in the international system. This is the perspective or delusion that Mr. Putin brings to the Arctic. Like all drugs, however, ultranationalism also loses effectiveness with continuing use, and often requires an ever larger dose. This only increases the danger of miscalculation and confrontation.

The Russian aggression in Crimea/Ukraine, moreover, affects three crucial areas of Canadian interest that also intersect with North American and Arctic security: interna-

*Russia is plagued by a now stagnant uni-dimensional economy that is in desperate need of fundamental structural reform if it is to be competitive in a modern international system.*

tional law; the United Nations (UN); and nuclear proliferation. What Russia is doing in Ukraine cannot be segregated from Moscow's policies or ambitions in the Arctic. Facing any threat from Russia in the Arctic and ensuring North American defence and Canadian sovereignty within this larger constellation also means that these should be non-partisan issues for Canadians.

## Across the Board Challenges

### *International Law*

Russia is certainly not the first or only state that has flouted international law. Nonetheless the Kremlin's brazen disregard for international law when it came to Ukraine, the perversity of Moscow's interpretation of such law, and the Orwellian twisting of the language and content of international law is not only striking but profoundly dangerous. It is a stark warning about the Kremlin's Arctic politics and policies and those who care about international law should be highly concerned.

The sovereignty of Ukraine was to be protected by at least four international instruments. These include: the *Alma Ata Declaration* of December 1991, which governed the dissolution of the Soviet Union; the *Budapest Memorandum* of 1994, which gave security guarantees to Ukraine in exchange for removing nuclear weapons from its territory; the 1997 agreement on the stationing of Russia's Black Sea Fleet in Ukraine's Crimean ports; and the 2010 agreement which extended the 1997 arrangement for an additional 25 years whereby Russia had been required not to engage in major movement of Russian forces or raise force levels without consultation with the Ukrainian government.

The invasion and annexation of Crimea, the fomenting of strife within Ukraine by Russian security forces, and the continuing threats by Moscow's forces massed on Ukraine's borders flagrantly violate all the above agreements. Further Russian excuses for using military force and claims of legal justification perversely undermine the general credibility of international law for they hold no validity according to any

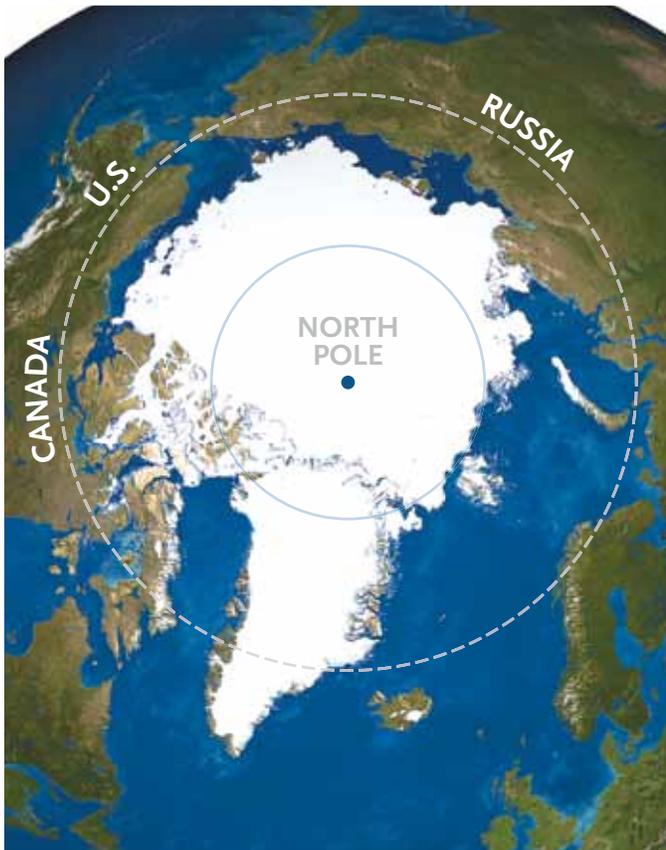
reasonable and traditional interpretation. Russia has no right to use force to protect ethnic Russians within the territory of Ukraine, including Crimea – that is the duty of Ukraine. Russia's attempt to use the rescue doctrine, when it cynically confers Russian nationality on Ukrainian citizens, does not justify the occupation of parts of another state. Further, Russia's claims regarding the doctrine of humanitarian intervention would require that an entire population's very survival is threatened and this is certainly not the case in Ukraine. Lastly, this is not a situation of a Responsibility to Protect (R2P) and Russia – which has been avidly fomenting unrest in Ukraine – with its violent suppression of minorities in the Caucasus is hardly the country to make any such claim.

In the process of perverting the use and interpretation of international law Russia has also introduced, as noted, an Orwellian language that is especially worrisome. Political arsonists become firemen, resistance by Ukraine is deemed provocation, and those who advocate Ukrainian independence are instantly labelled as fascists and Nazis. Moscow's goal here seems to be to make the West look helpless and Ukraine to feel hopeless.

Though in a milder form, we are witness to the distortion of international law by Russia in the Arctic. In 2001, contrary to restrictions placed by the UN Convention of the Law of the Sea III (UNCLOS III) that limit exploration and economic rights to a 200 nautical mile limit, Russia made an exclusive claim to the Lomonosov Ridge in order to assert an exclusionary 1200 mile right in the Arctic, all the way to the North Pole. In April 2014, Russian scientists ominously asserted that the Mendeleev Ridge in the Arctic Ocean was also part of Russia's continental shelf. It is little wonder that Canada felt compelled in December 2013 to make its own claim along the Lomonosov Ridge that extends from Ellesmere Island. It is noteworthy, however, that Canada made an application to the UN Commission regarding the limits of the continental shelf on this matter as an opening for negotiations, cooperation,



*Canada should enhance domestic consensus on the need to respond to Russian delusions of empire and specifically Moscow's increasing assertiveness or aggressiveness in the Arctic.*



and possible compromise rather than a blatant assertion, the way Russia has done.

### *The United Nations*

Just as the League of Nations was tested in the mid-1930s with Mussolini's invasion of Ethiopia, so the UN is being tested by the invasion and annexation of Crimea and the continuing threats against the remaining territory of Ukraine. The credibility of the UN and its key organs is important, in turn, for the peaceful resolution of actual and potential disputes in the Arctic.

The failure to impose effective sanctions against Italy for its aggression, particularly an embargo on vital oil supplies (in the faint hope that Mussolini would side with the democracies against Hitler) played a seminal role in utterly discrediting the League. With Russia able to exercise a veto as one of the five permanent members of the Security Council and with the current remarkably mild and reactive sanctions that Mr. Putin has so easily brushed off, the United Nations is facing a very similar dilemma. What role therefore could a discredited or very diminished UN or its various specialized UN organs play

in the Arctic in the face of increased Russian assertiveness or possible aggressiveness?

### *Nuclear Proliferation*

It is not difficult to imagine that had Ukraine retained nuclear weapons (and the talented and highly trained Ukrainian scientists would have undoubtedly been able to operate these weapons that had belonged to the dissolved Soviet Union rather than the Russian Federation) Mr. Putin, who despite his bullying and bluster tends to be very cautious when confronting real power, would not have dared invade and annex Crimea. In exchange for giving up its nuclear weapons Ukraine was guaranteed its territorial integrity in the 1994 *Budapest Memorandum*, not only by Russia but, it should be noted, also by the United States and Britain – both NATO members. The failure by the current US administration to come to Ukraine's rescue of course speaks eloquently to the reliability of US security guarantees. More than that, however, the invasion of a nuclear-free Ukraine sends a powerful message about proliferation to rogue states and nuclear aspirants, from North Korea to Iran: if you have nuclear weapons, keep them; if you don't, get them.

### *Canada's Options*

Deconstructing Canadian foreign policy for the moment by leaving aside Canadian commitments to NATO allies in Eastern Europe and our efforts to reverse Russian aggressions and prevent new ones in Ukraine, what is Canada's strategic position in North America and in the Arctic? Though the two layers of defence provided by NATO and NORAD are certainly impressive and would highly likely be activated in case of an all-out assault on Canada by Russia, there are key questions about alliance reactions in the case of piecemeal use of force or pressure by Russia in the Arctic. The effectiveness of both NATO and NORAD, we must appreciate, ultimately depends on US leadership and determination and here we need to face certain key questions.

Despite all the proclamation of declinism, the United States remains the world's largest economy, producing over a fifth of the total output, and the US military is potentially by far the most powerful in the world. But capacity is not the same as actual power. Effective power incorporates both "hard" and "soft power" working in tandem and mobilizes capacity across the spectrum. If the US is not prepared to offer that leadership of combining and mobilizing, in either NATO or NORAD, no other country or countries can provide an adequate substitute.

Let me be clear that the above concern is definitely not a call for US military action. We do however, need to understand the nature of power, mobilization, and leadership and to appreciate that sanctions are coercive measures – that is hard power. It is an axiom in international relations that weakness, particularly when it comes to the use of hard power, can be provocative. Ineffective use of hard power too often emboldens the target. Mr. Obama’s reluctance to use military force is commendable, for reasonable people everywhere would wish to avoid war. His willingness to only “lead from behind” – in essence an absence of leadership – is not mobilizing, however, in any effective way the non-military elements of hard power and the vast array of soft power that America possesses.

As New York Times columnist Frank Bruni has perceptively observed, the United States under President Obama is “walking small.” For Mr. Putin, this seems to indicate a green light and he has not been hesitant to employ the military option in Crimea (and somewhat more surreptitiously in eastern and southern Ukraine). There is a question, therefore, as to just how emboldened Mr. Putin will remain and to what extent this will translate into significantly more aggressive policies in the Arctic.

What Canada has to invariably conclude from the above is that there are serious questions about the reliability of the United States as an ally in the Arctic, especially in certain potential confrontational situations. Consequently, Canada, if it is to safeguard its sovereignty and national interest, has to reinforce the third layer of defence, namely self-reliance. Faced with increased Chinese assertiveness in Asia, Australia for instance, has decided to significantly boost its air defences. Canada needs to act similarly regarding our north and the Arctic Ocean. In a sense, Canada must improve the effectiveness of both its “hardware” and “software.” In terms of the former, Ottawa will need to make significant additional expenditures and preparations that should include purchases of additional advanced aircraft, surface vessels, among them powerful icebreakers, and modern subs with Arctic capacity. In terms of “software”, Canada should enhance domestic consensus on the

need to respond to Russian delusions of empire and specifically Moscow’s increasing assertiveness or aggressiveness in the Arctic. While Ottawa should continue to foster strong diplomatic and military support among our NATO allies and continue to work within the Arctic Council, it should also signal unequivocally to

Russia that it is willing to strongly defend Canadian sovereignty and national interest in the Arctic. On September 18, 2014 Canada did just that. When Russia sent bombers near Canadian air space within Canada’s air defense identification zone (ADIZ) in the Arctic, coincidentally just after the Ukrainian President Petro Poroshenko addressed a joint gathering of the two houses of the Canadian Parliament and received a standing ovation, Ottawa ordered fighter aircraft to intercept the probing Russian planes.

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### Conclusion

Just as there are no painless sanctions (though effective sanctions are perhaps the best means to obviate the need for recourse to military force), so there is no deterrence on the cheap. It is by reinforcing all three layers of defence, but especially the third one, that Canada would best be able to reduce the possibility of misperception and miscalculation that so often historically have led to international conflict. It is a most effective way as well to remove temptation from Russia and to introduce a kind of “reality check” into Mr. Putin’s delusional imperial dreams. That in turn would go a considerable distance to reducing the risk of conflict. The “hardware” must be accompanied then by the “software” of clear and resolute policies and statements that also have the benefit of demonstrating Canadian leadership. Let us not forget that Mr. Putin in the past has shown himself as being capable of cooperation and compromise, but only when all of his other options are unequivocally removed. ❁

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*Aurel Braun is a visiting professor, Department of Government at Harvard University and professor of international relations and political science, University of Toronto.*



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# The West has been sideswiped by Islam's civil war

*Macdonald-Laurier Institute Managing Director Brian Lee Crowley argues that the Islamist threat to western societies is a secondary battlefield to the fight over who speaks for Islam. It matters to the West who wins, he says, because “the Muslim world is riven by doctrinal differences, with global consequences for Muslims and non-Muslims alike”. (The Ottawa Citizen ran an edited version of this column on September 12.)*

## **Brian Lee Crowley**

Who speaks for Islam?

You might think this is a question for that faith's adherents to work out, and in normal times that would be the correct answer. But these are not normal times. Western politicians and editorialists, for example, seem quite content to make ex cathedra pronouncements about what “true” Islam is (usually characterised as “a religion of peace”) and those who “pervert” the religion for their own nefarious purposes (i.e., “terrorists”)

such as Al Qaeda and Islamic State.

Islam's adherents always rightly point out that it is not hierarchical. There are no bishops. There is no one central authority figure with power to determine doctrine. There is no pope. There are major schisms within Islam, separating for instance Shi'ites, Sunnis, Sufis and Ismailis. The tradition tends to be one of individual clerics and mosques establishing a following for their interpretation of the Koran, and local



*What we must never lose sight of is that the Islamist threat to Western societies like Europe, Canada and the US is a secondary battlefield in what is chiefly a civil war for control of Islam.*

traditions. There is no one “Islam.”

The reason all this matters is that if we do not understand our adversary, the radical Islamist Jihadists, we will fail to take the correct steps to protect ourselves and defeat them. Wishful thinking is a poor defence against suicide bombers and battle-hardened guerillas.

What we must never lose sight of is that the Islamist threat to Western societies like Europe, Canada and the US is a secondary battlefield in what is chiefly a civil war for control of Islam. The “religion of peace” that our leaders so often invoke is in fact one faction in the battle for Islam’s soul. We are taking sides over how that religion is to be understood.

It is right for us to do so. Who wins matters. The modernisers within Islam, with whom we ally ourselves, are the ones who want their religion to make peace with modern concepts like secularism, democracy, minority rights, equality of the sexes, freedom of conscience and so forth. They can adduce compelling evidence of the compatibility of the Islamic canon with these ideas.

But the radicals are no less able to find justification within that canon for their cruel and revanchist practices. Islam was no religion of peace when it spread itself by the sword for centuries, the tide in Europe only being turned back at the gates of Vienna in the 17<sup>th</sup> century. Plenty of non-believers met grisly fates in the face of the onslaught of people motivated by a vision of a divine mandate to spread the truth to every land.

Both sides call down the blessings of Allah and his prophet Mohammed on their work and quote the Koran to

their purpose.

It is not as if we in the West know nothing of such conflicts. The English Civil War pitted a purifying puritanical interpretation of Protestantism against those who believed in the divine authority of king and church. Many died and a king lost his head over differences regarding what the Christian religion enjoined its followers to do. Calling the faction you favoured “true Christians” and their opponents a perversion of the religion would have done nothing to help resolve the conflict because it would have misunderstood what the adversaries thought was at stake.

Islam is not the first religion to be torn between embracing new concepts as the way forward versus a return to first principles.

That civil war doesn’t only rage far away. It is here. Work for my institute several years ago found that Muslim public opinion strongly favoured the inclusive liberal values of our country. Yet while 65 percent of Canadian Muslims repudiated Al-Qaeda, for example, 35 percent did not. The *Toronto Star* professed to find no common denominator linking the Toronto 18 terrorism suspects, despite the fact that they were all Muslims and many attended the same mosque.

Nothing in our too-delicate Western sensibilities can define away the reality that the Muslim world is riven by doctrinal differences, with global consequences for Muslims and non-Muslims alike. ✦

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Brian Lee Crowley is Managing Director of the Macdonald-Laurier Institute.



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# Straight Talk on Canada's ailing health system

## with Dr. Brett Belchetz

*For the latest instalment of Straight Talk, MLI discusses medicare reform with Dr. Brett Belchetz, an ER physician who battles with the inefficiencies of Canada's medical system while treating patients on the front lines of health care delivery.*

**MLI:** Should Canadians be worried about their health care system?

**Belchetz:** They shouldn't be happy, and let me give you just one example. The Commonwealth Fund, a US-based think tank, recently compared the health systems of 11 of the most developed industrialized countries in the world. It was a really interesting survey because they looked at a number of dimensions, including patient outcomes, accessibility to care, cost of care – pretty much every dimension that people would think is important in terms of an effective health care system. Canada scored second last.



Brett Belchetz, M.D.

The only country that performed worse than Canada was the United States. What was particularly interesting – and this is what is of concern to Canadians – is that the United States has a system that is all private care. Canada has the system that is the most public. But all of the other nine developed nations in the study have blended systems that are more of a mix of private and public care. And it's of concern that we are the second-worst performing of these countries, and we are totally bucking the trends of health care systems that seem to be performing much better.

The other thing that was concerning was, they looked at the

cost per capita of running the health care system and while we were second last in the world, we certainly weren't second last in terms of cost. Our system costs about \$4500 per person per annum and the United Kingdom's system, which is the number one performing system in the world I believe, is only around \$3400 or so. So, countries that are doing far, far better than us are doing it far more cheaply and with a system that blends private and public, which is something that we have been completely unwilling to do in this country for a long time.

**MLI:** Were you surprised by these findings?

**Belchetz:** Well, I wasn't. As somebody who works in the system I can tell you there are a number of issues with it. Costs are out of control; there is rampant abuse of the system; accessibility to care is poor; our wait times are getting worse over time, not getting better; the availability of specialist care, surgeries, and all sorts of things have continually gone downhill, and in fact because of a lack of funding for certain specialities we actually have unemployed physicians in our country for specialities where people are waiting months and months for procedures. There's a major imbalance in our system between the supply of health care and the demand for health care. So, when I hear that our health care system is both inefficient and not delivering care effectively, it's certainly not a surprise to me as a front line worker at all.

**MLI:** You don't often hear about a problem of unemployed physicians. Many Canadians fear a medical brain drain.

**Belchetz:** From a personal perspective, I know many colleagues who have finished surgical training programs, radiology training programs, and who don't have jobs – they cannot find work in their field. This is something that should never be happening, but I know people who have trained for many, many years across specialties where I know there is a shortage and they can't get a job. I can talk about plastic surgeons I know who can't get jobs. Ear, nose, and throat surgeons who can't get jobs. Radiologists who

can't get jobs. Neurosurgeons who can't get jobs. Cardiac surgeons who can't get jobs. Across every one of these specialties, all of which are in demand, where there are wait lists for the procedures, I can

tell you that I know doctors who can't get work.

We need more data on this. I'm basing this on my observations. But, what I can say is that this is one of those things that should, in a properly economically-balanced system, be able to be solved through fluctuating prices. If, for instance, geography was the factor that caused people to be unemployed, in a normal supply-demand equation then the price paid for the services provided in the regions that people don't want to serve would go up. Unfortunately, because our system has set pricing for all of health care, there's no ability for the price to vary and therefore, there's no way to really persuade people who don't want to work in a certain

geographical area to actually go out there for a higher salary.

**MLI:** How do you see the problems with Canada's system in your day-to-day practice? What are you seeing there that needs to be fixed in Canadian medicine?

**Belchetz:** Well, I think there are a number of things that we need to address. First of all, I would say that the lack of access to tests and short supply of specialty consultation are certainly big challenges to medical care here. Things like routine diagnostic colonoscopies can be a struggle to get. Things like access to MRIs and CT scans, again, can be a huge struggle to get. Access to specialty consultations and things like consultations with neurologists and other types of surgeons/specialists, that can be a struggle. So, when as a clinician working on the front lines you are not able to get patients access to the correct diagnosis and the correct treatment in a timely manner, certainly that compromises the outcome.

Another thing I am seeing that is a big problem is rampant abuse of the system which is being allowed. So, for instance, I've had patients with chronic abdominal pain who don't like the diagnosis that they have, who will have 14 CT scans of their abdomen done in one year and OHIP, the Ontario Health Insurance Program,

*I've had patients with chronic abdominal pain who don't like the diagnosis that they have, who will have 14 CT scans of their abdomen done in one year and OHIP, the Ontario Health Insurance Program, pays for every single one of them.*

pays for every single one of them. The cost to the system of each of those CT scans is \$1000. I fully support everybody's right to a full diagnosis, but after the first or second scan that simply confirms the initial diagnosis, there's a problem. The fact that we are not somehow clamping down on that extra \$12,000 in costs, and are allowing a patient, with absolutely no restriction, to incur that kind of cost on a system that is resource-constrained is not appropriate.

Similarly, patients will see their family doctor for a cold, and not like the diagnosis of "cold" because they wanted antibiotics. Then, the next day they will see a walk-in clinic, again asking for antibiotics, and when they don't get any antibiotics from the walk-in clinic, then they come to see me in the emergency room on day three. The accumulative costs of those three visits is extreme.

Some studies have estimated just walking through the door of the emergency room and registering as a patient can cost the system \$300 to \$400. So, the fact that somebody has already seen two physicians and been given the same diagnosis and now proceeds with absolutely no change in symptomatology and has a third visit where they receive the exact same diagnosis – that's a problem. I don't know the exact way to address it, but this kind of thing is costing the system tremendous amounts of money and we need to do something to prevent the rampant abuse of the system that happens when the price for access to care is zero.

Another example of abuse that seems quite common is when people come in seeking narcotic prescriptions. Some people come to our emergency room 20, 30, 40, 50 times even in one year because they know that they might get what they want eventually. Because there's no consequence to them from those visits, there was no cost to them whatsoever, they are willing to make those 25 extra visits in order to get what they're looking for. If there was some price to the emergency room visit, even a nominal user fee for access, people would be less willing to come in for things that clearly are not what the system was designed to provide.

**MLI:** This kind of frankness is unusual. Are your opinions common, do you think, among your colleagues?

**Belchetz:** I would say that what I'm talking about is probably not an uncommon experience for people in emergency medicine. I

think the willingness to talk about it is probably more uncommon. I think as physicians we're very afraid to in any way criticize the behaviours of our patients. The reason why I'm willing to speak frankly about it is because I think it's important overall

for the health of all of my patients for us to have a system that's sustainable. When we have a system that truly is in a dire financial circumstance, where we can't afford basic procedures, when we can't afford an MRI for someone who desperately needs it, when somebody who has presented and wasted tens of thousands of dollars on unnecessary testing and that prevents cancer care for other patients, I believe that's an issue that needs to be addressed. So, for me, what I'm always looking

to do is to see when we are wasting money and how it is harming others, because this isn't a harmless behaviour. It's not something that we can look at in isolation; something that we can just allow to happen without considering what it's doing in terms of limiting care for others.

**MLI:** If the distribution of resources is one of the big problems, as you have written recently in the National Post, what reforms would help make the Canadian system more efficient?

**Belchetz:** Spending on health care is out of all control. Health care budgets eat up approximately 40 percent of the total spending of all of our provinces. It's a tremendous portion of everything that we spend. It is such an enormous amount of money that even small amounts of change could effect major improvements in our society, so that's number one.

Number two, the proportion of our economy that is dedicated to health care is massively increasing over time. So, if you look back in the 1970s, we only spent about 7.5 percent of our GDP on health care and that's up to almost 12 percent now. That's a tremendous rate of growth. That's only going to get worse as our population ages and that's something that we need to address sooner rather than later before our health care system bankrupts us all.

When I talk about the "war on economics" in Canada's health system, I'm talking about the fact that we now have a

*Spending on health care is out of all control. Health care budgets eat up approximately 40 percent of the total spending of all of our provinces.*



health care system that ignores all rules of supply and demand because what we've done is create almost what I would call a communist system within a capitalist country. By communist I mean a system whereby there is no flexibility of price, which allows no flexibility of supply and demand. Anybody who has studied basic economics knows that as the price of any good goes down the demand for that good tends to increase to the point where if the price is zero, demand is infinite. Conversely, the rules of supply and demand also say that as the price of any good goes up there tends to be more of that good supplied by people who produce that good. Unfortunately, what we've done in Canada is we've created a communist system where we've set in place price control. So, the price to patients for care is zero, patients are not allowed by law to pay any money for health care, and prices that are paid to suppliers are set at very specific levels that are not allowed to be changed at all. What that has created is a system where demand has skyrocketed, as we've seen in the incredible growth in health care expenses. There is no amount of health care that we can supply that is ever enough to meet demand, that is ever enough to curb the wait lists that we always see.

Another factor is that, because there's no flexibility in the price of supply, we see issues like communities that are unable to have surgeons or no ability to get physicians to work more hours. There's no extra money in the pot that can allow us to fund more care. So, I believe that if we could introduce some form of price into health care – and I'm not talking full capitalistic price, the way it would be in the United States – but at least some

form of user access fee into our system that would at least curb demand, and we could recruit extra supplies of medical care to address shortages. We could bring our system much closer to a supply and demand equilibrium where the amount of health care that is supplied is much closer to the amount of health care that is demanded; whereas right now, we have a massive, massive excess of demand over supply and that leads to the huge wait list that we see right now.

If we introduce some form of fee we eliminate a lot of the unnecessary visits. So, the people that right now would come five times for a cold might only come once to get their diagnosis, or the person that consumes 20 CT scans of their abdomen in a year because they don't like their diagnosis of abdominal pain might not continue to seek further CAT scans once they've had one or two. So, what we can do is at least curb some of the most flagrant abuses of the system and put a ceiling on the demand, which at this point has absolutely no ceiling on it whatsoever.

There are many out there who would argue that the problem with this is it prevents people of lesser means from seeking diagnosis in care, but that's not been the experience in a lot of the other countries that have co-payment. If you look at the Commonwealth Fund study, a lot of the countries out there have requirements for some form of payment for all health care services even in their public systems and that has not hurt access to care in all of those countries. For their least advantaged citizens, they have schemes whereby people can be reimbursed for what are considered legitimate medical visits. So, there are many examples



we can draw from rather than saying, “This is an impossibility and it will lead to diminished levels of care for those of lesser means”. What we can do is actually look at how other countries achieved co-payment, achieved some form of user access fee without hurting access to care, and I think we can very easily emulate what they have done successfully.

**MLI:** Do you think that kind of reform is possible under the Canada Health Act?

**Belchetz:** Unfortunately not. The Canada Health Act, which was legislated in 1984, states that it is not allowed for anybody to charge for medically necessary services. The minute any province allows any medical care provider to charge for medically necessary services, the Canada Health Act allows the federal government to withdraw funding from that province.

So, it’s really a noose around the neck of our entire health care system. It prevents any innovation, it prevents any attempt to change the model that we have right now, and it really locks us into being the only developed nation in the world that has a fully public health care system with absolutely no private option whatsoever to at least release some of the pressure off of demand

that we see, and to also open up extra avenues of supply. So, I think the very first thing that has to happen – if we’re going to start trying to innovate in health care and try to open up our system to some of the better ideas that we’ve seen work very well in other countries – is to repeal the Canada Health Act or at least modify it in an extensive manner that allows us to innovate in a way that up until now we haven’t been able to do.

**MLI:** Isn’t that heresy?

**Belchetz:** Unfortunately, in Canada it has been for decades. It has been political suicide for any politician to even speak about private health care of any kind or charging for health care in any way, and certainly to talk about rolling back the Canada Health Act, which in many respects is almost looked upon as if it’s a biblical act. The truth of the matter is the Canada Health Act is not that old. The Canada Health Act is an experiment; it’s been here for the last 30 years and that is it. Canada did very well in terms of health outcomes before the Canada Health Act came into existence and, in fact, what the Canada Health Act has led to is ballooning waiting lists, ballooning expenses, and worsening care. Before the Canada Health Act we were certainly not the second worst of the developed nations in the world when we were ranked in terms of our health care system, so when we look at this mandated system of zero pricing, it has done nothing other than worsen outcomes.

So, we need to be realistic and we need to start saying, instead of only looking at the United States when we talk about repealing the Canada Health Act and saying we will become like the United States, which is the worst performing health care system in the world, we need to look at countries like the European nations, all of whom have blended systems of private and public care and all of whom do better than we do. We need to actually look at the best examples in the world and forget this idea that the Canada Health Act is a law that can never be repealed, and we need to say there is something out there that’s working far better than what we’re doing, and repealing this law allows us to innovate and to copy that.

**MLI:** And yet, you often hear about Cadillac care at US hospitals and clinics.

**Belchetz:** Well, there are two dimensions where the Commonwealth Fund really indicted the United States health care system. Dimension number one is cost. Their average cost per care is extraordinary. They are by far the most expensive health care system

in the world. The second is care. Access to care is completely unfair and disproportionate in the United States. So, those people who are of greater means certainly have unlimited access to, I agree, Cadillac care.

But, other than the wealthiest part of society, and not just the poor, many people have absolutely no access to care whatsoever. Even people of the middle class who are on insurance plans tend to have quite poor access to care. We hear many stories of people who, once they have become ill, find their insurance coverage all of a sudden rolled back or denied, or people cannot obtain insurance at all because they are ill, despite having some amount of money to pay for insurance. What you end up having in the United States is awful access to care and awful treatment once you have become ill, unless you have great wealth. So, what the Commonwealth Fund found was that the majority of Americans are actually receiving terrible treatment.

**MLI:** So, if the United States is at the bottom of the Commonwealth Fund report, how effective is the charge of “US-style health care” in Canada?

**Belchetz:** You know, I think it’s a very effective charge for those people who are looking to derail any attempt to fix our health care system. So, everybody here knows, I think, through all of the media that we see, that the United States has terrible health outcomes. We know that people who are of lesser means in the United States are treated horrifically by that health care system, so it’s a very easy charge to pull out when anybody talks about charging for any type of care here. It’s a very effective way to shut that debate down quickly. However, what people are not exposed to here is the European example, I guess, because it’s across an ocean. We are not seeing all of the stories that come out of those countries where patients are routinely charged for health care. Every one of those countries has a public care system just like ours, but they also have a very effective private care system and we’re not hearing the stories that those counties have very effectively blended those two systems and created incredibly great health outcomes and have done far better on the Commonwealth study than we have. So, you ask how effective is the charge of US-style health care at, I guess, shutting down our health care debate? It’s very effective. It’s an incredible tool because people don’t know the alternatives that are further away than the United States.

**MLI:** Do you think the health care debate has neglected the needs of the patient?



*We know that people who are of lesser means in the United States are treated horrifically by that health care system, so it’s a very easy charge to pull out when anybody talks about charging for any type of care here.*

**Belchetz:** I think to a great extent people have been caught up in dogma rather than thinking about what’s best for the patient. There’s an addiction to the idea of free-for-all health care rather than health care that is good for people. What we should want is health care that creates the best outcomes for our citizens. We look at ourselves as being slightly more enlightened than the United States, but our dialogue is just as poor as theirs. In the United States, if anybody talks about any role for government in health

care, the debate is automatically shut down – socialized health care will never be allowed in the United States. Here in Canada, we look at that and we say, “That’s dark ages. How can you be so closed-minded to not allow the idea of government-funded health care?” And I would say we are similarly closed-minded because here in Canada when anybody talks about charging for health care – all of a sudden it’s US-style health care; let’s shut down the debate. So, I think, we need to stop looking at ourselves as being an enlightened country that’s open to debate and realize that so far we haven’t been.

**MLI:** How would you advise policy-makers, then, to sell the idea of reform?

**Belchetz:** Well, I think we need to start educating people about the other systems that are out there in the world. I think there’s an amazing lack of knowledge around Canada about just how well private health care systems have complemented public health care systems in other parts of the world and I think we need to educate people both about the fact that outcomes for everybody have gotten better under those systems and that there’s been no limitation of access to care for people of lesser means. So, I think the debate starts with educating people to say stop looking at the United States. The UK system, Swiss system, Swedish system: let’s look at the phenomenal outcomes that all of these people have achieved by allowing some amount of private health care into their systems. I think once people have their eyes opened a little bit here, we will start to realize that in fact our system and the US system are not the only options in the world and that allowing private care into our system is not a poison pill that leads directly to being the United States.

**MLI:** How do these other countries balance public and private health care?

**Belchetz:** When you look at the European nations and Australia, what you end up seeing is that there’s an extremely large role for the government. Their federal governments pay for a huge

percentage of health care expenses; however, side-by-side there are fully private health care options. There are hospitals that are run fully by private industry and paid for fully out of the private purse. So, those particular options are not paid for out of the public purse at all, which is actually a great thing because it takes some

of the weight off of the public health care system. For instance, if one-quarter of the people in Canada with appendicitis had the means on their own to pay for the procedure, that’s a huge savings for our public health care system. Similarly, if 25 percent of the people who wanted an MRI were willing to pay for it out of their own pocket, again, that’s a huge savings given that the cost of each MRI our public health care system has to pay for is thousands of dollars. So, that’s just one of the benefits of allowing a complementary private health care system to exist alongside our public system.

**MLI:** What does Canada’s health system do well?

**Belchetz:** We have a system whereby we take excellent care of those people who have serious illnesses and need help. I have never seen in our system patients, for instance, who are suffering from terrible things like a heart attack who don’t get great treatment. I’ve never seen somebody who is a victim of a trauma who isn’t getting amazing care in a trauma centre whether they have insurance or not. So, we do a lot of things well in terms of making sure that some of the worst illnesses and the worst accidental injuries get well taken care of. There’s also no fear anywhere in our system that somebody who has no means is going to be turned away for any reason whatsoever. I think people feel very safe in our country to go about their lives knowing that they’re going to be taken care of. So, that’s excellent. I don’t think introducing some form of private care will take away from that assurance at all. I think we can build safeguards into any blended system that still say it doesn’t matter who you are; it doesn’t matter what means you have; it doesn’t matter what you’re coming

*We have a system whereby we take excellent care of those people who have serious illnesses and need help. I have never seen in our system patients, for instance, who are suffering from terrible things like a heart attack who don’t get great treatment.*

# RECOMMENDATIONS

MLI has drawn three recommendations from its discussion with Dr. Belchetz:

- 1** **Repeal the Canada Health Act and begin to allow those who can pay for their own care to do so and relieve pressure on the system.**
- 2** **Implement user fees to reduce abuse of resources and deliver price signals to increase supply and reduce demand, while preserving access for patients of limited means.**
- 3** **Stop concentrating on the poorly performing US system and look to better-performing systems in Europe and elsewhere for policy ideas.**

in with, you will still be taken care of. I still think we can have assurances that that will exist no matter how we blend public and private care in our system.

**MLI:** We have some big decisions to make in the future.

**Belchetz:** Yes, consider the fact that drug coverage is not universal here, so the truth of the matter is some of the other countries that are in the Commonwealth Fund study actually offer more public coverage in key areas. We always think of Canada's system as being universal coverage, where everything is free, but people are left to pay for their own medication outside of hospital. We have a system that is so bankrupted by allowing universal visits to the doctor and universal visits to the hospital that for those people who are truly ill, medications aren't covered at all. A lot of people I see – actually I have great experience working in an area of town that is not a wealthy area – there are many people I see who can't afford to fill the prescriptions I write for them. Some of the blended private/public systems in Europe, although there may be a small user fee to see the doctor and there may be some other fees that we don't have here, a lot of them provide drug coverage as part of their overall health insurance program. When you include things like dental care, things like medical prescription costs, those systems actually become far more equitable to the patient and far more affordable than our own, where people have no access to dental care without money and no access to prescriptions without money.

Dental care is a big one. I frequently see people in the emergency room with dental problems and they come to the hospital because there's no coverage under OHIP for them to see the dentist. Unfortunately I'm not a dentist and I don't have dental training so there is very little that I can do for them. I have seen people who have lost most of their teeth because they cannot afford to see a dentist, and that doesn't exist in a lot of these systems in Europe where they have blended private and public coverage, but the public coverage includes dental care.

So, I think we've been very myopic. We have basically said, to the expense of everything else, let's have unlimited physician visits, let's forget about dental care, let's forget about prescription drug coverage. I think it makes a lot more sense to be a little bit more limiting on the physician visits and hospital visits, but give much more broad coverage to somebody's overall health. 🍀

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**Brett Belchetz** is a practising emergency room physician in Toronto, and a former management consultant with McKinsey and Company. He obtained his undergraduate degree in Statistical Sciences from the University of Western Ontario and his Doctor of Medicine degree from the University of Toronto. Dr. Belchetz has been published multiple times in the National Post, The Toronto Sun, and The Huffington Post. He appears regularly as an on-air health and medical expert for Sun News Network, and for CTV's The Marilyn Denis Show.

# Assessing Canada's Biofuels Strategy

## (a debate by correspondence)

*In June 2014, MLI published a paper by University of Guelph professors Ross McKittrick and Douglas Auld which made damning conclusions about the costs and benefits of Canadian programs for subsidizing the production of biofuels. If the primary goal was to reduce greenhouse gas emissions, these programs have been an expensive failure, Auld and McKittrick reported. The response by the Canadian Renewable Fuels Association was swift, accusing the authors of a litany of errors and challenging the substance of the report's findings. Auld and McKittrick have responded to defend their work. The full exchange is reprinted below. The paper is available at [macdonaldlaurier.ca/files/pdf/MLIbiofuelspaper0626.pdf](http://macdonaldlaurier.ca/files/pdf/MLIbiofuelspaper0626.pdf).*



Canadian Renewable Fuels Association

Association Canadienne Des Carburants Renouvelables

June 27, 2014

Mr. Brian Lee Crowley  
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Dear Mr. Crowley:

**RE: Auld and McKittrick Paper on Biofuels**

On behalf of the members of the Canadian Renewable Fuels Association, I am compelled to respond to you directly on behalf of Canada's biofuels producers and the farmers that our organization represents. The recently released study "Money to Burn: Assessing the costs and benefits of Canada's strategy for vehicle biofuels" is so replete with errors that I believe it will adversely affect the reputation of your organization. A complete summary of those errors is included below with annotation. These errors are not insignificant, rather they go directly to the foundation on which the author's conclusions are established.

Professor Auld has had a long history of criticizing biofuels with spurious assumptions underlying his conclusions. His articles and his book on the subject have been resoundingly rejected by numerous economic and environmental impact studies. It is extremely disappointing that your organization would provide him with a platform to further propagate these errors. Canada's biofuels industry creates wealth in Canada's rural areas as well as reducing emissions by over 4.2 Megatonnes per year. This MLI paper is a smear founded on numerous factual errors.

At this time, I would like to formally request the opportunity to respond to this poorly researched and defamatory article in the MacDonald-Laurier Institute magazine *Inside Policy*. Notwithstanding the egregious content provided to you by Professors Auld and McKittrick, after a review of your organization's policy on 'research independence,' I can only conclude that your research advisory board failed to properly verify their research. As you can see from the attached appendix, some of the errors are so blatant that it is almost unexplainable to serious academic researchers that this work would be publicized in any way. In the future, I would like to strongly suggest that any articles about biofuels published by your organization are subject to more rigorous peer review by individuals who possess actual expertise on the subject matter at hand. I would be happy to provide the names of several independent academic researchers who could serve in this role.

.../2

[www.greenfuels.org](http://www.greenfuels.org)

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I very much look forward to the opportunity to respond to Professor Auld and Professor McKittrick's article, and would welcome the opportunity to meet with you to discuss the attached appendix.

Respectfully,



W. Scott Thurlow  
President, Canadian Renewable Fuels Association

c.c.: Mr. Rob Wildeboer, Chair, MacDonald-Laurier Institute

## Appendix 1: Peer Review of Money to Burn

### Page 5. The discussion on MTBE is not correct.

The US Government did not remove the requirement to oxygenate gasoline in 2005 and replace it with the renewable fuel mandate. The EPA had two programs that required oxygen to be added to gasoline. The winter oxygenated fuel program that addressed CO levels has reduced the number of cities that it applied to but in 2008 eight cities were still in the program.

<http://epa.gov/otaa/reqs/fuels/420b08006.pdf>

The other program is the Reformulated Gasoline (RFG) Program. RFG is required in cities with high smog levels and is optional elsewhere. RFG is currently used in 17 states and the District of Columbia. About 30 percent of gasoline sold in the U.S. is reformulated. RFG contains oxygen and has other compositional changes to reduce emissions. The EPA did remove the oxygen requirement in 2006 but ethanol helps the reformulated gasoline in other ways and ethanol remains in essentially all RFG sold.

The primary concern with MTBE was that it was contaminating ground water and threatening the drinking water supply. That is why the States banned it. The Oil industry asked Congress to provide them with indemnification for the use of MTBE to meet the requirements of the Clean Air Act, when Congress refused, the industry almost immediately switch to ethanol so that they could continue to meet the requirements of the Clean Air Act.

### Page 5. Canada ethanol blending. There were no Provincial ethanol mandates in 2003.

The Canadian biofuel program introduced in 2006 included a requirement to blend an average of 5% ethanol in gasoline and support programs to produce the required 2 billion litres of ethanol in Canada. Canadian production capacity is about 1.8 billion litres so it is not clear how the program is larger than intended. More than 5% ethanol is being blended by the oil companies because the use of ethanol is cost effective for them. The ethanol that is blended in excess of the Federal requirement is imported from the United States and receives no government support in the United States or in Canada.

The authors should know that a correlation between ethanol use and corn price is not the same as ethanol causing corn prices to increase. Many other commodities, including crude oil increased significantly in this time period.

**Page 6.** One source is cited to support a linkage between biofuel policy and grain prices. Many other studies have not found the strong linkage reported here. Three papers (and there are many more) with different views are:

1. World Bank. Long-Term Drivers of Food Prices. May 2013.  
[http://globalrfa.org/file\\_download/19/Long-Term\\_Drivers\\_of\\_Food\\_Prices.pdf](http://globalrfa.org/file_download/19/Long-Term_Drivers_of_Food_Prices.pdf) The conclusion of this work was that most of the price increases of grains and oilseeds are accounted for by crude oil prices (more than 50 percent), followed by stock-to-use ratios and exchange rate movements, which are estimated at about 15 percent each.
2. World Bank. July 2010. Placing the 2006/08 Commodity Price Boom into Perspective. This paper concludes that a stronger link between energy and nonenergy commodity prices is likely to be the dominant influence on developments in commodity, and especially food, markets. Demand by emerging economies is unlikely to put additional pressure on the prices of food commodities. The paper also argues that the effect of biofuels on food prices has not been as large as originally thought, but that the use of commodities by financial investors (the so-called "financialization of commodities") may have been partly responsible for the 2007/08 spike.

[http://globalrfa.org/file\\_download/20/The\\_Impact\\_of\\_Ethanol\\_Use\\_on\\_Food\\_Prices\\_and\\_Greenhouse-Gas\\_Emissions.pdf](http://globalrfa.org/file_download/20/The_Impact_of_Ethanol_Use_on_Food_Prices_and_Greenhouse-Gas_Emissions.pdf)

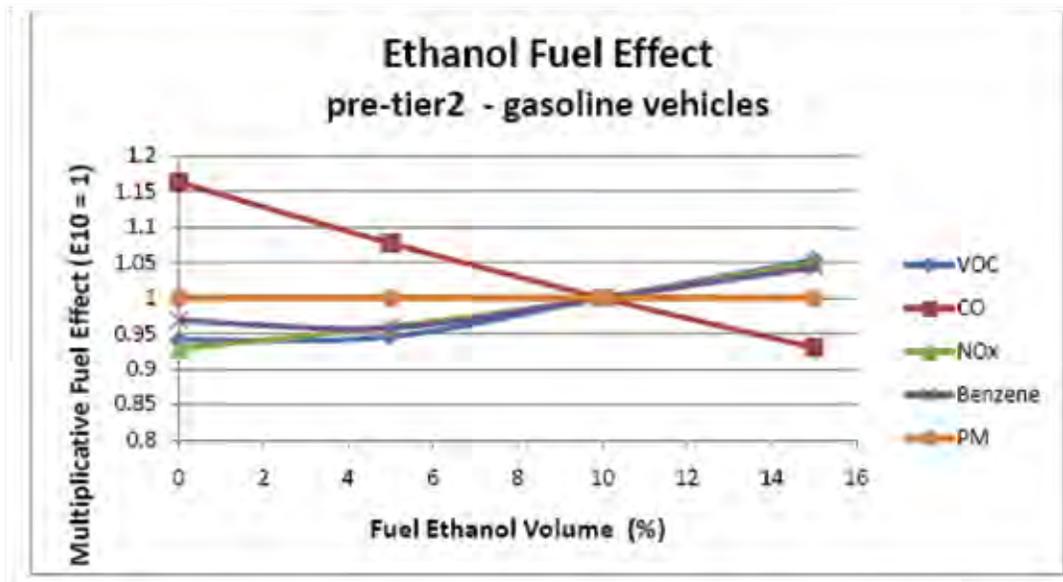
- The Congressional Budget Office. 2009. The Impact of Ethanol Use on Food Prices and Greenhouse-Gas Emissions. CBO estimates that from April 2007 to April 2008, the rise in the price of corn resulting from expanded production of ethanol contributed between 0.5 and 0.8 percentage points of the 5.1 percent increase in food prices measured by the consumer price index (CPI). Over the same period, certain other factors—for example, higher energy costs—had a greater effect on food prices than did the use of ethanol as a motor fuel.

[http://globalrfa.org/file\\_download/21/Placing\\_the\\_2006-08\\_Commodity\\_Price\\_Boom\\_into\\_Perspective.pdf](http://globalrfa.org/file_download/21/Placing_the_2006-08_Commodity_Price_Boom_into_Perspective.pdf)

**Page 6. Emission Benefits.**

The US EPA shows the impact of ethanol on pre 2004 vehicles in the following figure. 10% ethanol does have an impact on CO emissions.

<http://www.epa.gov/otaq/models/moves/documents/420r11011.pdf>



The authors seem to confuse "efficiency" with energy content. On an energy basis there is no evidence that biofuels burn with a lower efficiency and require more to travel the same distance. In fact there is evidence that the fuels combust with higher efficiency and offset some of the lower energy content.

**Table 1.**

The ecoEnergy for biofuels program paid \$0.26/litre for alternatives to diesel not gasoline and this level was paid in 2008 only. The current level is \$ 0.08/litre. The maximum payment for gasoline alternatives was \$0.10/litre and the current payment is \$0.05/litre. Note that all levels of government tax ethanol on a volumetric basis and thus collect **more tax** on ethanol on an energy basis than they collect on gasoline.

The ABIP program was used to fund researchers for biomass conversion, not necessarily for biofuels and none of this money went to biofuel companies. Similarly none of the money in the Agri-Opportunities Program went to biofuel producers.

Not all of the programs identified will use the total quantity of money allocated to them. The ecoEnergy program is likely to not use \$500 million of the allocated funds.

#### Table 2.

Ontario does not have a 14.7 cpl tax exemption for ethanol. This was repealed starting Jan 2007. The Ontario Ethanol Growth Fund (not Biofuel Growth) does not have \$60.5 million per year available.

The Quebec production incentive for ethanol is only payable when the price of oil is less than \$65/bbl.

The different ethanol levels in the different provinces do not create boutique markets as the practice of the industry is supply either E10 or E0 to a market. Thus Northern Alberta, Saskatchewan, and Manitoba all have 10% ethanol in their regular gasoline and no ethanol in premium gasoline.

It is the Canadian Renewable Fuels Association, not the Renewable Fuels Association of Canada.

#### Emission Impacts

Ethanol, as do all oxygenated fuels, does contain less energy than gasoline. However, energy content is not the only factor that determines the fuel economy. Ethanol has higher octane, higher heat of vaporization, and other factors that offset some of the lower energy content. In fact, petroleum suppliers are voluntarily over-blending ethanol in some gasoline orbits to capitalize on these benefits. Original Equipment Manufacturers in North America and Europe are calling for higher ethanol blends to power the vehicles that will have higher fuel economy standards in the future as a result of the higher octane value.

#### Table 3.

The source for this table was the EPA notice of proposed rulemaking for the RFS 2 program. EPA significantly revised this table after the comment period as there were a large number of errors in the calculations. Some of the changes are compared below.

Fuel	Proposed Rule	Final Rule
Corn Ethanol Dry Mill (NG)	+5%	-17%
Corn Ethanol Dry Mill (Best Case NG)	-18%	-30%
Soy biodiesel	+4%	-57%
Sugarcane ethanol	-26%	-61%

The EPA analysis also includes the hypothetical emissions caused by indirect land use change (ILUC). The indirect land use change is supported by a number of econometric models. These models all produce quite different results from each other and include a large number of assumptions. More problematic is the models do not reflect what has been happening in the real world.

These models all suggest that in North America and Europe we should have seen an increase in cropland and a decrease in pasture and forestland. In the past decade, when biofuels use expanded rapidly, exactly the opposite has happened. Cropland in these regions has decreased and pasture and forest areas have increased. There are a number of reasons why the models have been wrong but three important reasons

is that the models ignored the availability of idle cropland, they ignored the very significant efficiency improvements in the livestock sector, and did not account for the changing diets of the population.

The Mullins, Griffin and Mathews paper also includes the hypothetical indirect land use emissions. The authors built their own LCA model and populated it with their own data. They significantly overestimated the energy use for ethanol production. Their ILUC emission estimates also used the preliminary data from the EPA that was significantly revised in the EPA Final Rule.

GHG emissions are dependent on a wide variety of factors including geography and taking results from region and applying it to another region will create errors. In all of the work cited by the authors more than 50% of the electric power is supplied by coal, compared to Ontario and Quebec where no coal is used to produce electricity. The one more favourable review of the GHG emissions by Coad the authors dismiss because of the renewable nature of the ethanol feedstock yet on page 9 they seem to accept this fact.

For the calculations of the cost benefit, the authors rely on the paper by Sesmero et al (which was published in 2010 and not 2012). This paper was prepared by economists and not LCA experts. It actually determines that plants may be able to reduce their GHG emissions by 6% beyond their current performance by optimizing their inputs and outputs. The GHG emissions of the standard ethanol plant in their study is 46 g/MJ and the optimized plant is 43 g/MJ, compared to gasoline at 86 g/MJ. The optimized system is a 50% reduction in GHG emissions compared to gasoline. This is on an energy equivalent basis.

The BESS model, used by Sesmero et al actually showed that the GHG emissions of ethanol were estimated to be equivalent to a 48% to 59% reduction compared to gasoline, a twofold to threefold greater reduction than reported in previous studies (Liska et al, 2009, [http://ethanolirfa.org/page/-/objects/documents/2110/2009\\_jie\\_improvements\\_in\\_corn\\_ethanol-liska\\_et\\_al.pdf?nocdn=1](http://ethanolirfa.org/page/-/objects/documents/2110/2009_jie_improvements_in_corn_ethanol-liska_et_al.pdf?nocdn=1)).

### **Direct Costs of Ethanol**

The GSI report on direct support costs for ethanol has previously been shown to grossly overestimate the benefits received by the ethanol industry. It includes payments made for R&D, feasibility studies, accelerated capital cost allowances and was for the years 2006 to 2008. Many of the programs from that era have been reduced or eliminated. The current level of direct support is between about 7 and 12 cpl (5 cpl federal and 2-7 cpl for Provincial depending on market conditions).

A 50% reduction in GHG emissions for ethanol compared to gasoline on an energy equivalent basis saves 1.1 kg CO<sub>2</sub>eq/litre of ethanol. The cost effectiveness is therefore \$0.007/1.1 kg\*1000 kg/tonne, or \$64/tonne. This is vastly different from the \$3300/tonne which is calculated not from the GHG emission benefits from ethanol but from an economic assessment of how ethanol plants might be able to optimize their operations.

### **Overall Costs and Benefits**

There are numerous errors and incorrect assumptions in this section. It repeats the error from the Sesmero paper on the GHG emission benefits. The paper systematically overestimates the costs and underestimates the benefits.

To: Brian Lee-Crowley,  
Executive Director, MacDonald-Laurier Institute

From: Douglas Auld and Ross McKittrick

July 21, 2014

## RE: RESPONSE TO CRITIQUE BY THE CRFA

### Introduction

The CRFA critique has raised many issues to which we are pleased to respond. Some are of a less substantive nature, such as names and dates of specific programs and the circumstances leading to the banning of MTBE. We are grateful for these pointers and we will go over them carefully, making any necessary amendments to our report. Herein we respond to the major criticisms that fundamentally question the basis of our conclusions.

Our study argues that, even on a reading of the evidence with all reasonable assumptions in favour of ethanol, Canadian biofuels policy fails a cost-benefit test. Much of the CRFA response argues that the government programs we discuss have either wound down or currently cost less than they originally did. In this regard, we remind the reader that our estimates pertained to benefits and costs over the 2008-2012 time interval, and we did not claim that all the programs are still ongoing. As the CRFA notes, many are not. Our efforts to find precise information about ongoing government support for biofuels have been hampered by poor disclosure at the provincial and federal levels. We have found that the most consistent sets of data on Canada come from the U.S. and Switzerland. However, if we take the CRFA response at face value, they argue that effective government spending and tax breaks are now so low that the remaining costs are largely recovered via regular excise tax revenue. (We assume that the CRFA has netted out the loss of tax revenue from the reduction in gasoline sales due to blending mandates.) If this is true then we can only note this development with approval and add that our report should be taken as an argument against reinstating any of the defunct support programs.

The CRFA also argue that biofuels so effectively improve the quality of gasoline that the refining industry is voluntarily using them even beyond the requirements of the government blending mandate. If this is so then presumably the CRFA would agree that the mandate is redundant and can be repealed. Were that to happen, and were government support programs actually to be held to zero net cost to the public, we would be among the first to celebrate any continued growth and expansion of the ethanol industry, as it would then indisputably be based on profitable entrepreneurship and genuine value-added economic development.

Our concern is, however, that the growth and expansion of the industry is, in fact, dependent on the blending mandate and continuing government support programs, and in this regard the marginal costs to Canadians exceed the benefits. The rapid rise of the industry after the onset of federal support

programs circa 2007, and the continuation of a legal blending requirement, are prima facie evidence that the industry is strongly dependent on government support. If the CRFA wants to be free of that taint, its best strategy would be to lobby for immediate repeal of the blending mandate and other incentive programs.

### International Context

We are by no means the first or only critics of biofuels policy. It would be nice if biofuels were, in fact, inexpensive, economically and environmentally sustainable, profitable and effective in reducing GHG emissions, but the experience of countries around the world is proving otherwise and there is no reason to think Canada will be immune from these problems. Indeed we note that many of the most vocal critics of biofuels these days are from among supporters of environmental causes, including past supporters of biofuels.

- "The biofuels route is a dead end," Dr. Andrew Boswell, a Green Party councillor in England and author of a recent study on the harmful effects of biofuels, told SPIEGEL ONLINE. "They are going to create great damage to the environment and will also produce dramatic social problems in (tropical countries where many crops for biofuels are grown). There basically isn't any way to make them viable."<sup>1</sup>
- "Paul J. Crutzen, who won the 1995 Nobel prize for chemistry, estimates that biodiesel produced from rapeseed can result in up to 70 percent more greenhouse gas emissions than fossil fuels. Corn, the preferred biofuels crop in the US, results in 50 percent more emissions, Crutzen estimates."<sup>2</sup>
- "The grain it takes to fill a 25-gallon tank with ethanol just once will feed one person for a whole year. Converting the entire U.S. grain harvest to ethanol would satisfy only 16 percent of U.S. auto fuel needs....Ethanol euphoria is not an acceptable substitute for a carefully thought through policy." Lester Brown, Earth Policy Institute<sup>3</sup>
- "Those who have been promoting these fuels are well-intentioned, but wrong. They are wrong because the world is finite. If biofuels take off, they will cause a global humanitarian disaster." George Monbiot, *The Guardian*<sup>4</sup>
- "The U.N. Intergovernmental Panel on Climate Change has for the first time acknowledged the risks of uncontrolled biofuels development, a skepticism that has slowly emerged into the mainstream scientific community, say academics.... even scientists who view biofuels as generally good have reservations about broad policies that promote bioenergy."<sup>5</sup>

<sup>1</sup> <http://www.spiegel.de/international/europe/a-total-disaster-critique-mounts-against-biofuels-a-530550.html>

<sup>2</sup> Ibid.

<sup>3</sup> [http://www.earth-policy.org/press\\_room/C68/senateepw07](http://www.earth-policy.org/press_room/C68/senateepw07)

<sup>4</sup> <http://www.theguardian.com/guardianweekly/story/0,,1363756,00.html>

<sup>5</sup> <http://www.scientificamerican.com/article/biofuels-might-hold-back-progress-combating-climate-change/>

- “[UN Food Envoy] De Schutter called for urgent action in several areas, including a freeze on new investment in biofuels and for U.S. and European Union targets for biofuel use to be abandoned.”<sup>6</sup>
- “The U.S. Environmental Protection Agency has proposed cutting by 3 billion gallons, about 18%, the amount of ethanol in the U.S. fuel supply this year... the EPA is doing the right thing by paring the mandate. And the best solution might be to end the mandate altogether, as legislation introduced by Democratic Sen. Diane Feinstein of California and Republican Sen. Tom Coburn of Oklahoma would do.”<sup>7</sup>
- “First generation ethanol I think was a mistake. The energy conversion ratios are at best very small.” Former US Vice President Al Gore<sup>8</sup>

### Energy Content and GHG Reductions

We stand by our numbers regarding the relatively unfavourable energy content of ethanol compared to gasoline. According to the data at The Methanol Institute (Methanol.org) the btu content of ethanol relative to gasoline ranges from 63% to 68%.<sup>9</sup> The US Department of Energy estimates it as “about 70%.”<sup>10</sup> Notwithstanding the higher octane levels cited by the CRFA, the US DOE concludes that “Vehicles will typically go 3% to 4% fewer miles per gallon on E10 and 4% to 5% fewer on E15 than on 100% gasoline.”<sup>11</sup> However, as noted, if the CRFA believes that biofuels on balance improve the overall quality of motor fuels and would voluntarily be used by petroleum refiners even without a blending mandate or financial incentives, we would readily accept the verdict of the market on this point—if only the market were allowed to decide.

The CRFA asserts without evidence that Mullins et al. “significantly overestimated the energy used for ethanol production.” That study used Monte Carlo analysis to integrate a wide range of production parameter values and yielded the distributions we showed. We contacted Mullins on this point and learned that her team stands by their work, and they re-emphasized that “using only single values disregards the ranges and uncertainty in data used to generate a point estimate.” The point estimate for GHG emissions from ethanol cited by the CRFA (46 g/MJ) is right at lower bound of the Mullins et al. range. The CRFA provide no grounds for ignoring the full distribution of possible values, in light of the well-known uncertainties in Life-Cycle Analysis, including those arising from land use changes.

The CRFA states that our figures in Table 3 were later replaced by the EPA with revised ones, but no source was given. We suspect the alternate figures assume away land use changes. We contacted the EPA for confirmation of the CRFA numbers but to date have not received a reply. The most up-to-date

<sup>6</sup> <http://uk.reuters.com/article/2008/05/02/uk-food-un-rights-idUKN0221650020080502>

<sup>7</sup> <http://www.jsonline.com/news/opinion/environmental-protection-agency-proposing-reasonable-cut-for-ethanol-b99188612z1-241396021.html>

<sup>8</sup> <http://af.reuters.com/article/energyOilNews/idAFLDE6AL0YT20101122>

<sup>9</sup> <http://www.methanol.org/Energy/Resources/Alternative-Fuel/Alt-Fuel-Properties.aspx>

<sup>10</sup> [http://www.afdc.energy.gov/fuels/ethanol\\_fuel\\_basics.html#v](http://www.afdc.energy.gov/fuels/ethanol_fuel_basics.html#v)

<sup>11</sup> <http://www.fueleconomy.gov/feg/ethanol.shtml>

analysis we found at the EPA website is in the 2010 Regulatory Impact Analysis report at <http://www.epa.gov/otaq/renewablefuels/420r10006.pdf> which underpins the regulations out to the year 2022. On page 469 they estimate that the 95% confidence interval for GHG reduction estimates for ethanol from new, natural-gas fired plants is 7–32%, with a mid-point of 21%, which is the figure we used.

The CRFA asserts instead that ethanol yields a 50% reduction in GHG per unit of energy compared to gasoline. This is not a mid-point of independent estimates but an upper bound. When computing the \$400 per tonne subsidy costs of GHG reduced, we assumed a reduction from 95 g/MJ to 70 g/MJ, (a 21% reduction), in line with the expert literature. Had we assumed a 50% reduction (47.5 g CO<sub>2</sub>/MJ) we would have computed a subsidy cost of \$215 per tonne, still well above the mainstream marginal damage estimates. The CRFA estimate of \$64/tonne is based on their claim that actual public support is minimal. But we disagree with their rationale for dismissing the GSI subsidy estimates as “[gross] overestimates,” namely because they include R and D, feasibility studies and accelerated depreciation. We see no reason why such public costs should be ignored. All public expenditures to promote ethanol belong in the calculations.

Overall we are not prepared to take an upper bound as the central point estimate. There is a wide range of estimates from the scientific literature on GHG emission reductions and ethanol. Nor is the uncertainty range simply due to a different electricity supply mix between Ontario and the US Midwest. But, as noted, even if we took the CRFA claim at face value we would still find social costs well in excess of benefits.

### Other Effects

It is also necessary to point out that direct public spending is only part of the total social cost of the policy. One of the major cost elements about biofuels is their effect on grain and food prices. The CRFA dismiss Wright (2013) as merely “one source” in comparison to three they cite. But Wright deals with and rebuts their proposed alternative explanations, including oil price increases. Wright’s survey and analysis reaches an unambiguous conclusion: “to solve the puzzle of recent grain market behavior it is necessary to incorporate into the market model—in addition to substitution between grains as sources of calories, and substitution between successive harvests via storage—a third key substitution, that of biofuels for petroleum-based fuels.” (Wright p. 75). And we could have included other sources as well, e.g. Gilbert (2010).<sup>12</sup>

The CRFA refers to the Coad paper (Conference Board of Canada). We suspect the Coad GHG estimates for ethanol are understated, for two reasons. First, it states that Canadian ethanol GHG are lower because our farmers, in growing corn, use less nitrogen fertilizer and more manure. But in a proper LCA this should not reduce CO<sub>2</sub>-equivalent GHG’s since manure is a major source of methane, which is a

<sup>12</sup> Gilbert, C., (2010) “How to Understand High Food prices” *Journal of Agricultural Economics*, Vol. 61, No. 2, 2010, 398–425.

much stronger infrared-absorbing gas than CO<sub>2</sub>. In addition, the paper states “The vehicle emissions are lower because ethanol is a renewable fuel and the CO<sub>2</sub>e emissions from the fuel itself are excluded from the calculation” (p16). It is not legitimate to disregard emissions because the fuel is renewable: they still count. However, this is a peripheral issue since in our calculations we were more than fair to the ethanol case.

Regarding the effect on CO emissions, the chart provided by the CRFA does not include error bars, nor does it provide any break down by test type, engine size or age. The source we cite (Rask 2004) includes all these details and takes them into account in forming his conclusions. While some post-1988 vehicle models show small CO reductions when using oxygenated fuels, the reductions are not statistically significant. Moreover, since motor vehicles made after 2007 have mandated CO reductions on a per-mile basis that are now 98% below the typical levels in 1966 model cars,<sup>13</sup> and since CO levels in Canadian cities are well below national and provincial requirements,<sup>14</sup> it is unlikely that the case for biofuels could rest in any measure on claims of further marginal CO emission reductions.

### Conclusion

In sum, the CRFA base their position on values of parameters such as GHG reduction ratios and public expenditure estimates that lie at the extreme ends of the range of independent estimates. In our analysis we canvassed the full range of independent evidence and in our calculations we employed assumptions that were more than fair to the ethanol case. Even on this basis the likely costs of the policies still exceed the likely benefits, and the comparison only worsens once a fuller range of evidence is examined. If biofuels were as advantageous as the CRFA claims—if government support were as negligible; food price effects as minimal and policy mandates as redundant—then we would have no case to make, and indeed as economists we would view the development of the industry as a good thing in principle, just as much any other private sector industry. But the historical context is one in which industry growth has conspicuously relied on mandates and subsidies, and as a creation of government policy it therefore needs to be critically evaluated as such.

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<sup>13</sup> See McKittrick, Ross (2010) *Economic Analysis of Environmental Policy* Toronto: University of Toronto Press, ch. 1 p. 28.

<sup>14</sup> See data at [yourenvironment.ca](http://yourenvironment.ca)

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Two CF-18 Hornets over Vancouver Island. Mounted on the aircrafts are three external fuel tanks, two Aim-7 Sparrow and two Aim-9 Sidewinder Air-to-Air Missiles. Photo: Vaughan Lightowler/Combat Camera/ combatcamera.forces.gc.ca

# Canada can't be complacent about its military spending

*It is folly to allow moments of global calm to lull Canadians into thinking we can shirk the responsibility to maintain robust armed forces, writes MLI Managing Director Brian Lee Crowley in a column published by Postmedia papers in Sept. 2014.*

**Brian Lee Crowley**

Events in Syria, Iraq, Ukraine and elsewhere show yet again why Canada cannot be short-sighted about its military. Moments of international calm must never make us complacent or we will not be able to respond when circumstances sour again, as they inevitably will.

Not so long ago, Ottawa was being made fun of by those who claimed that attempts to renew our military equipment,

including frigates, helicopters and fighter planes, were just an exercise in conservative ideology. No matter what kit is proposed, a chorus of voices always protests that peace-loving Canada has no need to spend such sums on the tools of war.

We were withdrawing from Afghanistan, the Middle East was not just quiescent, but seemed to be succumbing to the siren call of democracy and human rights through the Arab

*We are in danger of becoming a toothless laughing stock, quick to threaten the bad guys but unable to field properly kitted-out troops where the national interest requires them to be.*

Spring. Militarily Russia was seen as a Potemkin village, and the idea that we needed the capacity to respond to their probing of North America's air defences dismissed as the ravings of ideologues. UBC's Michael Byers called it a "make believe threat."

Today, in the face of naked Russian aggression in Ukraine, a spike in its probing of the air defences of numerous NATO allies and the rise of the murderous IS movement in Syria and Iraq, the criticism of the federal government's policy has flipped.

Now it is that Canada has been running down its capacity to engage militarily far from its shores. We are in danger of becoming a toothless laughing stock, quick to threaten the bad guys but unable to field properly kitted-out troops where the national interest requires them to be.

It so happens that latter criticism is entirely justified; the Conservatives have been stealthily running down the navy, army and air force for short term budgetary reasons. The result has been the West's most aggressive rhetoric on the defence of freedom coupled with an embarrassing inability to make good on that rhetoric.

The truth of the matter is that Canada has for years been able to behave irresponsibly on military matters because we outsourced our defence to the US taxpayer. Ever since President Roosevelt's 1938 promise that the US would never let outsiders threaten Canada we were largely relieved of the responsibility most other countries face of offering a credible defence of the nation. And President Kennedy's promise to bear any burden and pay any price to defend freedom around the world also basically let us off the need to be able to project significant power internationally when required in defence of our interests.

But faced with an increasingly isolationist US electorate



The Royal Canadian Navy frigate HMCS Ottawa.

Photo: U.S. Navy Mass Communications Specialist 2nd Class Walter Pels/combatcamera.forces.gc.ca

and commander-in-chief, the Roosevelt and Kennedy guarantees have been downgraded to a voicemail box that an assistant checks occasionally for messages. Inconvenient calls are not returned.

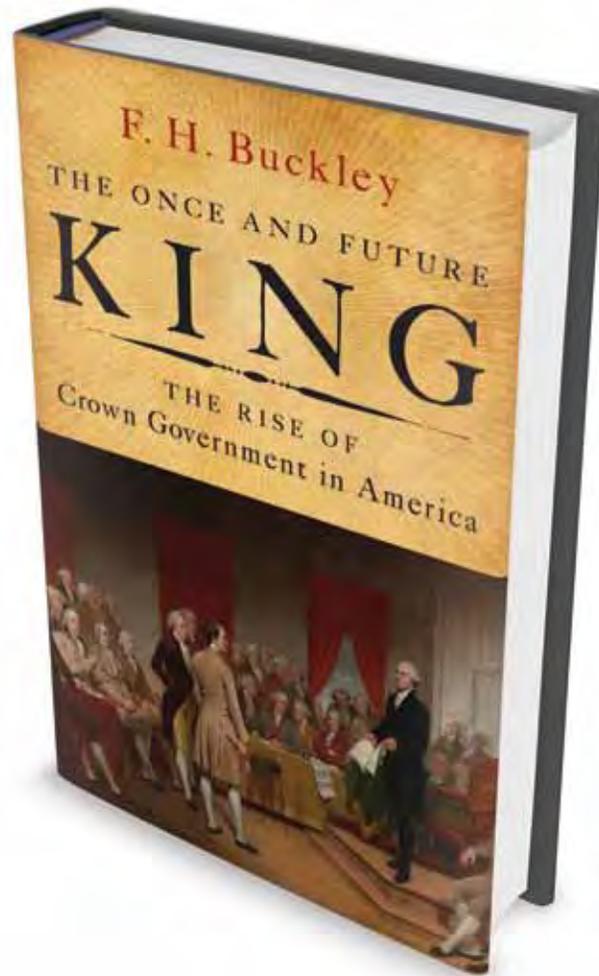
Here are two incontrovertible realities for a Canada waking up to the diminishing value of the American security guaranty in a dangerous world. The first is that every single bit of the much-criticised defence procurement of the last thirty years, whether frigates, fighter planes or light-armoured vehicles, has been called into extensive service. It did not gather dust in warehouses.

The second is that it takes far too long to get the kit we need, in part because of the rancorous debate and second-guessing that takes place. Every armchair general claims that we don't really need this or that piece of equipment because there is no credible threat when the purchase is proposed. The average time it takes from a major defence purchase first being mooted until actual delivery is now over 16 years. If an urgent and unexpected mission crops up and you don't have the necessary equipment, you can't buy it at Wal-Mart. Military conflict today is largely a come-as-you-are affair.

Serious countries take the long view of their security needs and equip themselves accordingly. Talking the talk is not enough. We must put boots on the ground and walk the walk. ✱

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**Brian Lee Crowley** ([twitter.com/brianleecrowley](https://twitter.com/brianleecrowley)) is the Managing Director of the Macdonald-Laurier Institute, an independent non-partisan public policy think tank in Ottawa: [www.macdonaldlaurier.ca](http://www.macdonaldlaurier.ca)



# Why Canadian democracy is superior

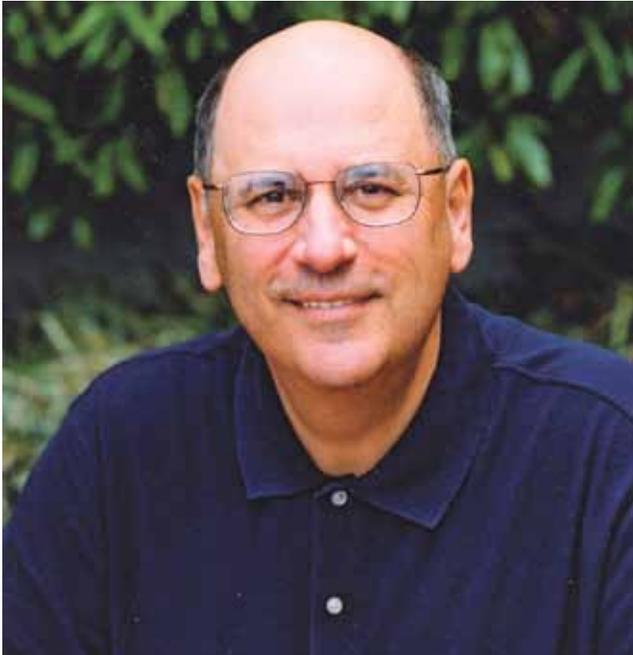
*F.H. Buckley, a Canadian professor teaching in the US has written a revealing new book titled 'The Once and Future King' that debunks many of America's founding myths. In this excerpt, he argues that parliamentary regimes such as Canada's are generally freer than presidential ones and that the American presidency has evolved into a too-powerful form of Crown government. (Notes from the author in italics)*

## *F. H. Buckley (book excerpt)*

Over the last 250 years there have been four American constitutions, and each has resulted in a different form of government. We have seen three thus far, and now are on the cusp of a fourth constitution. The first constitution, in the pre-Revolutionary thirteen colonies, was one of Crown government in which Royal governors were enormously powerful. This was swept aside by the Revolution, and (after the interregnum of the Articles of Confederation) the Framers at their Conven-

tion in Philadelphia in the summer of 1787 produced the second constitution, one designed to correct the flaws of Crown government and the Articles of Confederation. What they proposed was a form of Congressional government, with power centered in the Senate and House of Representatives.

The third constitution was one of separation of powers, of power divided between the legislative and executive branches. Its seeds were found in the second constitution and emerged over



George Mason Professor F.H. Buckley Photo: Katherine Wetzel

the next 50 years, as the president came to be popularly elected and his office emerged as the modern executive, commanding, decisive and possessing all the authority of the only person elected by the nation at large. Contrary to popular belief, this was not what the Framers had intended. It was not even what James Madison had wanted at the Convention, although it is often called the Madisonian constitution because of his defense of separationism in *The Federalist Papers*. Instead, the separation of powers between the executive and legislative branches is much more a creature of the unexpected rise of democracy.

We have now entered into a fourth constitution, one of strong presidential government. The president has slipped off many of the constraints of the separation of powers. He makes and unmakes laws without the consent of Congress, spends trillions of government dollars, and the greatest of decisions, whether to commit his country to war, is made by him alone. His ability to reward friends and punish enemies exceeds anything seen in the past. He is *rex quondam, rex futurus*—the once and future king. And all of this is irreversible.

*The British Constitution also evolved, over the same period:*

As in America, there have been four British constitutions since the time of the American Revolution. First came the “personal government” of George III, who chose his ministers and was

supported by a large block of “King’s friends” in Parliament. While sharing power with parliament, the King dominated the government, and the American Revolution was itself a consequence of his unpopular resistance to the colonists’ demands. George III was not a tyrant, however. His rule did not represent a sharp break from the constitutional practice that had prevailed after the Revolution Settlement of 1689, and his ministers could not long survive when opposed by a determined majority in the House of Commons. Nevertheless, this was still a form of Crown government.

This changed in 1782 after the fall of George III’s prime minister, Lord North, when the King’s power lessened and that of the House of Commons increased, and this I call the second British constitution. It was one in which power was shared between King and Parliament, and looked at from the distant prospect of Philadelphia it seemed to the Framers to feature a separation of powers between the executive branch in the form of the King and the legislative branch in Parliament.

Over the next 50 years, as the American constitution evolved from Congressional government to the separation of powers, the British constitution also changed, though in the opposite direction. By the time of the Great Reform Act of 1832, the King and House of Lords were well on their way to political insignificance. What there was of a separation of powers was abandoned, and of Britain’s third constitution all that remained was an all-powerful House of Commons. There was a similar evolution in Canada, with a movement from rule by Governors General and fractious Assemblies to government by the House of Commons alone. The three countries had crossed paths, with America moving from legislative government to the separation of powers, and Britain and Canada moving from the separation of powers to legislative government.

Looking backwards in 1867, it seemed clear to Walter Bagehot in *The English Constitution* that the “efficient secret of the English Constitution may be described as the close union, the nearly complete fusion, of the executive and legislative powers.” Time’s arrow moved always in the direction of democracy, but while it dispatched separationism from Britain it delivered it to America.

A fourth constitution is now emerging in Britain and Canada, one that parallels the move to the strong presidentialism of America’s fourth revolution. In Britain’s third constitution its government was led by the ruling party’s principal politicians, and was labeled “cabinet government” by the nineteenth century essayist Walter Bagehot. This has now given way to rule by a prime

minister who dominates his cabinet and Parliament.

What more than anything explains the move towards Crown government in all three countries is the growth of the regulatory state, where the role of legislation has diminished and that of regulatory rule-making expanded, with the regulators responsible to the executive and not to the legislature. Modernity, in the form of the regulatory state, is the enemy of the separation of powers and diffuse power, and insists on one-man rule. As in America, moreover, this is unlikely to change in Britain and Canada.

*Given a choice between the American constitution and the ordered British liberty to which they had become accustomed, the Canadian Fathers adopted the parliamentary system of Westminster, and proved that its organic constitution could be exported.*

Some Canadian radicals wanted to adopt an American constitution, with a president and a separation of powers. Most Canadians disagreed, however. They valued the British connection and the British traditions of liberty with which they were familiar. They also feared that, were they to adopt the American presidential system, this would lead the country down the slippery slope to outright annexation by the United States. Why have a separate country, if the political principles are the same? More than anything, they were familiar with the American system of government and didn't like what they saw. The United States had split apart in a Civil War, and the Canadians thought that states' rights delegates at the Philadelphia Convention had created a country that had become far too decentralized and unstable. They also observed the costs of the American separation of powers, in the inefficiency of its government, and wanted none of it. In their debates, the Fathers of Canadian Confederation anticipated Bagehot and articulated reasoned arguments for the superiority of parliamentary government. In the end, they showed how an organic constitution created over centuries in one country could be grafted onto a different country, one quite different in its religious, linguistic and social institutions.

The Canadian example of a peaceful accession to independence with a Westminster system of government came to be followed by 50 countries with a combined population of more than two billion people, and that is no small thing.

*Some Canadian radicals wanted to adopt an American constitution, with a president and a separation of powers. Most Canadians disagreed, however. They valued the British connection and the British traditions of liberty with which they were familiar.*

*For all the puffery of American politicians and political theorists, Canada has a superior constitution. When exported to other countries, the American system has bred presidents-for-life.*

Most Americans subscribe to the idea of "America Exceptionalism." When polled, 80 percent of respondents report that, because of its history and Constitution, America "has a unique character that makes it the greatest country in the world." For this, our thanks go to the Framers, who gave the country a presidential system that secured the blessing of liberty.

While that's a nice story, it lacks the added advantage of accuracy. Parliamentary governments, which lack a separation of powers, rank significantly higher on measures of political freedom. That's not to deny that America is one of the freest countries in the world. It's simply to assert that it wasn't the presidential system that made the difference. What makes America exceptional is that for more than 200 years it has remained free while yet presidential.

*Uniting the head of state and head of government in a single person—the president—is dangerous for liberty. In what Buckley calls "Jack Sprat's Law", the lean meat of the head of government's real power should be kept separate from the fat of the ceremonial duties of the head of state.*

Republican ceremonies in the United States, centered around the president, mimic those of royalty in a monarchy. In place of a coronation, there is a presidential inauguration, the departing president accompanying the new president from the White House to the Capitol, followed by the Oath of Office, the departure of the former president by helicopter from the Capitol's East Front,

the Inaugural Address from the West Front, the parade down Pennsylvania Avenue, the prayer services and balls. In place of the Royal Family, there is the First Family. In place of God Save the Queen, there is Hail to the Chief. A distinguished career merits a presidential medal, a national tragedy requires a presidential speech.

Turning the presidency into the icon of American identity brings to the fore a different kind of leader, a Weberian charismatic hero with a dangerously exaggerated sense of self. In part, this is a consequence of the rigors of the modern campaign cycle. The democratization of politics, in the form of primary elections, has meant that challengers must raise enormous amounts of money even before the nominee is chosen. Thereafter the regular campaign burns through hundreds of millions more, with a total cost for each candidate of over a billion dollars in 2012. The hypomanic candidate, who runs for office against seemingly impossible odds, has an edge in the competition. His campaign begins as soon as the last election is over, and continues for four years of fund-raisers, Iowa breakfasts and meet-and-greets in New Hampshire diners. The process winnows out those who lack the royal jelly of inflated self-regard and belief in their special “gift.” It leaves voters with candidates who are superbly qualified to run for office but less able to govern once elected. The president becomes the charismatic leader who surrounds himself with a bubble of admirers, and who once in office finds it difficult to conceal his contempt for members of the other party.

Just what would Weber’s charismatic president look like? He must first be seen to possess more-than-human qualities and offer a transformation, long on emotion and short on facts, that transcends everyday policy questions. Every successful politician must appeal at an emotional level, and this was especially true of the 2008 Obama campaign. The man who told us that “we are the ones we’ve been waiting for” and that “this was the moment when the rise of the oceans began to slow and our planet began to heal” was not speaking the language of politics. Ordinary politicians don’t talk that way, at least American politicians haven’t in the past.

*Turning the presidency into the icon of American identity brings to the fore a different kind of leader, a Weberian charismatic hero with a dangerously exaggerated sense of self.*

Second, the charismatic leader must ask voters to identify with him, to see his triumph as their triumph. Faoud Ajami noticed this phenomenon shortly before the 2008 election. He observed the crowds who attended Obama rallies, and was reminded of Third World crowds he had seen at the feet of their demagogic leaders. “There is something odd—and dare I say novel,” he wrote, “in American politics about the crowds that have been greeting Barack Obama on his campaign trail. Hitherto, crowds have not been a prominent feature of American politics. We associate them with the temper of Third World societies. We think of places like Argentina and Egypt and Iran, of multitudes brought together by their zeal for a Peron or a Nasser or a Khomeini. In these kinds of societies, the crowd comes forth to affirm its faith in a redeemer: a man who would set the world right.”

Third, the charismatic leader cannot brook rivals. There can only be The One. Every other source of authority is suspect, both people and institutions. His charisma trumps them all. Sadly, Congress has been given a role of some kind under the Constitution. “What’s frustrating people,” Obama complained, “is that I haven’t been able to force Congress to implement every aspect of what I said in 2008.” When the charismatic leader’s promise of transformational change falls short, as it must, he turns bitterly against his opponents, against anything that would fetter his unbounded will.

*The ability of Canadians to dump an unsatisfactory prime minister, without going through the tortuous proceedings of an American impeachment and removal, is proactive of liberty, at a time when the executive has amassed oversized powers.*

While spectacularly bad presidents will face a threat of impeachment, in 225 years no president has ever been removed in that way (although Nixon may have saved himself from this fate only by resigning from office). Impeachment, observed Jefferson in his old age, was not even a scarecrow, a judgment seconded by Henry Adams. By contrast, a prime minister may be removed at

any time, once he loses the confidence of the House and must stand for election.

*Then there's the accountability of a prime minister, in his responsibility to attend Parliament when it's in session and account for his government during Question Period. That brings a different kind of leader to the fore.*

The thin-skinned and grandiose fare better in presidential than in parliamentary regimes. The fall of the Chamberlain ministry in May 1940 was not inevitable, even though the Norwegian expedition had failed. Leo Amery delivered his ferocious “In the name of God, go!” speech on May 7, but the government had a majority of 213 and had seemingly neutralized Churchill by bringing him into the cabinet. What sealed Neville Chamberlain's fate, according to Harold Nicolson, then a National Labour M.P., was the prime minister's response to his critics the next day. When attacked by the Labour front bench for the fall of Norway, Chamberlain responded that the situation was grave and that the attack upon the government “and upon me in particular” had made it graver still.

“This really horrifies the House,” wrote Nicolson in his diary, “since it shows that he always takes the personal point of view. He goes on to say that he accepts the challenge of a [non-confidence motion], since it will show who is with him and who is against him. ‘I have,’ he says with a leer of triumph, ‘friends in this House.’” But when the vote was taken, 41 of his supporters voted against the government and about 60 abstained. Two days later, on the day that the Germans invaded the Low Countries, the prime minister resigned.

In America, by contrast, the imperial style wears better. Presidents do not appear before Congress, to face the brickbats thrown at prime ministers in parliament. Instead, they appear once a year in the quasi-regal State of the Union Address, where the kinds of abuse to which Lester Pearson was subjected would shock American sensibilities to the core. When Justice Samuel Alito seemed to mouth the words “not true” in response to Obama's criticism of the court, he was himself criticized for “flamboyantly insinuating himself into a pure political event, in a highly politicized manner.”

*Finally, there's the inefficiency of presidential government. That was supposed to be protective of liberty, but it doesn't even do that. Instead, it's sheer waste. It is a one-way ratchet in which bad laws are adopted and then turned into the laws of the Medes and the Persians.*

Getting legislation passed or repealed in America is like waiting for three cherries to line up in a Las Vegas slot machine. Absent a supermajority in Congress to override a Presidential veto, one needs the simultaneous concurrence of the president, Senate and House. In a parliamentary system, by contrast, one needs only one cherry from the one-armed bandit. In Canada, for example, neither the Governor General nor the Senate has a veto power. All that matters is the House of Commons, dominated by the prime minister's party. While his party commands a majority in the House and he enjoys his party's support, the prime minister is immune from the infirmities of divided government.

There is a nevertheless a downside to the dominance of the Prime Minister's Office in a parliamentary system. Since bills require the concurrence of different branches of government, they might be vetted more closely in a presidential system. If the government legislates less under the separation of powers, then, that is no bad thing if good laws survive and bad laws don't. On the other hand, it's harder to repeal a bad law in a presidential system, which raises the question whether pre-enactment screening is more desirable than reversibility.

The answer is that it's not. It is always easier to identify bad laws with the benefit of hindsight. Bad laws, based on bad ideas, with what are conceded to have bad consequences, are enacted everywhere. In dictatorships, bad laws are often bad from the start. In democratic regimes, however, bad ideas are typically recognized only after the fact. When one Parliament reverses a prior Parliament, it does so with more information than the prior enacting Parliament. It will know better what works and what doesn't.

*This is Canada's moment. At a time when America is dropping like a stone in measures of economic freedom, when it imprisons more people than any other country, when its people are less wealthy and its government more corrupt than many of its First World competitors, when its tort law regime resembles a demented slot machine of judicially sanctioned theft, when its public debt has ascended to alarming levels, when its president makes laws by diktat and refuses to enforce laws he dislikes, the superiority of Canadian parliamentary institutions should be obvious to everyone. ✦*

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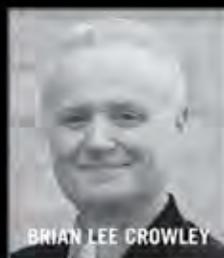
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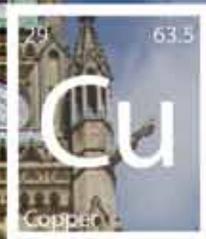
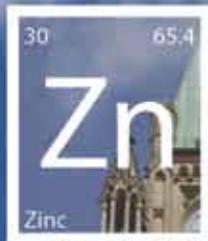
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