

Politics decides U.S. missile deployment

By GORDON GOLDMAN, St. Louis Post-Dispatch
WASHINGTON — U.S. President Ronald Reagan said he will order the deployment of 460 Soviet-made SS-20 intermediate-range missiles to 12 sites in Europe and the Middle East.

It was a surprise to the east and west alike, and the announcement came from the White House on Tuesday afternoon, right up to the day before the start of the 1982-83 session of the U.S. Congress. The president's decision is a surprise to many in the Congress, and it is a surprise to many in the Soviet Union.

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Canada's announced decision, which says it will not take SS-20 missiles but will place them in Europe, and Canada, when...

will increase the size of the United States military presence in a number of...

the only viable justification for the deployment of SS-20 missiles is the...

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Trudeau and Lévesque both wrong

The rights charter would not cancel Bill 101

By GORDON GOLDMAN, St. Louis Post-Dispatch
OTTAWA — Prime Minister Pierre Trudeau said he would not support a bill to cancel the Quebec Charter of the French Language, known as Bill 101.

Dialogue A volume of essays and commentary open to readers

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Liberals agonize over vote but consciences win

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The rights charter would not cancel Bill 101

By HERBERT MARX

Prime Minister Trudeau has given English-speaking Quebecers the impression that the proposed federal Charter of Rights will substantially modify Bill 101 and protect their language rights. This is false.

Premier Lévesque has given French-speaking Quebecers the impression that the charter would destroy French language rights in Quebec. This is equally false.

This is the bitter political irony in Quebec.

I have been told by many English-speaking people that they are in favor of the proposed federal charter because it will change Bill 101. But the charter will definitely not change Bill 101 provisions that prohibit bilingual commercial signs. Your Quebec company will still have to have a French name. And English, American and Russian immigrants will still have to send their children to French schools in Quebec.

If you believe otherwise, you are

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• *Herbert Marx, formerly a professor of constitutional law, is Liberal MNA for D'Arcy McGee.*

dreaming in color. The only aspect of Bill 101 that will be affected is that the charter as now written would permit Canadian citizens whose mother tongue is English, or whose primary instruction was in English in Canada, to send their children to English schools in Quebec.

The Quebec Liberal party position on the charter has been constant during the past year. We have repeated our opposition to the charter in and out of the National Assembly for the past 12 months.

Personally, I did not have to be convinced to vote for the constitu-

tional resolution last week in the National Assembly. I was always convinced that the federal initiative was wrong in law and wrong in principle.

I did not vote with the Parti Québécois: I voted my principles and I voted with the other provincial legislatures that also voted similar resolutions condemning the federal initiative.

Violated principle

In the recent Supreme Court decision, all nine justices agreed that the federal package unilaterally modifies provincial legislative powers. According to six of the justices, such unilateralism violates the federal principle that is the basis of our federal system.

"The federal principle," the court wrote, "cannot be reconciled with a state of affairs where the modification of provincial powers could be obtained by the unilateral action of the federal authorities."

The federal proposal is unconstitutional for a simple reason. In order to modify the constitution, two rules must be respected, the written as well as the unwritten law.

The written law is neutral on this point. All nine justices said that it would be legal for the federal government to proceed to London.

However, six justices wrote that the unwritten law (the constitutional convention) prohibits such unilateral federal action without the support of a substantial majority of the provinces.

The confusion in people's minds arises from the fact that the court held the federal package "legal" but "unconstitutional in the conventional sense." An important point in this debate, however, is that the court also stated that a constitutional convention (unwritten law) is at times more important than the written law. Here is an example:

For a bill to become law, it must

pass the House of Commons and the Senate, and be signed by the governor-general. If he refuses to sign a bill for whatever reason, the bill cannot become law.

In such a case, the courts would have to hold that the governor-general acted legally. It is only a constitutional convention (the unwritten law) that requires the governor-general to sign each and every bill that is adopted by both Houses of Parliament.

Happily our governors-general have always scrupulously respected this unwritten constitutional convention.

Canadian way

In sum, it is completely unacceptable that we obtain a constitutionally protected charter of rights in an unconstitutional fashion. It is simply not the Canadian way.

We can bring home the constitution without delay. All provinces are now in favor of patriation. If an

amending formula cannot later be agreed upon in federal-provincial negotiations, then there should be a national referendum so that the people can choose between a federally and a provincially suggested formula.

As well, we can include a charter of rights in the constitution as was proposed by the federal government in Bill C-60 in 1978. The charter would immediately apply to all federal laws all across Canada. This would essentially protect all of our fundamental freedoms. It would then be up to each province to accept the application of the charter to provincial laws. The people in each province would tell their provincial government how to act at election time.

Patriation of the constitution and a charter of rights that will clearly protect English Quebecers as well as other minorities should unite, not divide, the country. If we hope to unite the country, we must respect our federal constitution. Otherwise we are heading toward very serious social and political struggle in Quebec.

Liberals agonize over vote but consciences win

Your representative owes you not his industry only but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion.

Edmund Burke
Speech to the electors
of Bristol
Nov. 3, 1774

QUEBEC — René Lévesque couldn't remember who said it, or where or when. "I can't remember whether it was in the United States or England; it was in the Anglo Saxon world, in any case." But he summarized Burke fairly clearly on Friday afternoon in his final appeal to the dissident Liberals who were about to break with their leader and their party.

The Supreme Court decision last week on the federal constitutional proposals not only raised

GRAHAM
FRASER



and for the preservation of party unity.

So far, one cannot accuse Lévesque of splitting the Liberals.

als in 1974 over Bill 22) used to quote that to me," French said. "I used to reply with a quote from Disraeli: 'Twere well that members remembered that they were party men before they were members.'"

The irony is that French's vote runs counter to both Burke and Disraeli. When the crunch came, he sided with the electors of Bristol.

Unlike Scowen, who had worked for the Pepin-Robarts task force on national unity, and Herbert Marx, who is a constitutional legal expert, French is a management consultant who saw the choice in terms of a brutal political choice: Claude Ryan, or the people who had worked to get him elected.

After a lot of hand swallowing



First World War conscription crisis that preceded it. The *Minute, Ottawa* billboard showing a hand reaching out of a Union Jack and crumpling a Fleur de Lys is visually and psychologically not a constitutional billboard at all but an anti-conscription poster.

The 33 Liberals who supported the motion did not vote for - or with - the separatists when they rose to their feet Friday afternoon. They voted as every Quebec Liberal party since Adélard Godbout would have voted.

They voted from a conviction, as old as Quebec's acceptance of the terms of confederation, that Canadian federalism is not a vertical hierarchy but a horizontal division of powers; that under no circumstances should the National