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# The Breakup of Czechoslovakia

Robert Young

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## FOREWORD

There are very few cases of the peaceful secession of constituent units of federations. The breakup of Czechoslovakia, (which as the author, Robert Young, states is more accurately described as a separation than a secession), provides one of the few examples of the dissolution without civil war of a highly integrated state. Many Canadians have watched from afar with fascination and apprehension the events that culminated in the end of the Czech and Slovak Federal Republic at midnight on 31 December 1992. And those Canadians who have been more familiar with the debates that ensued in the former Czechoslovakia and who have followed the political dynamics closely have been struck by the significance for Canada of the so-called "velvet divorce" and the apparently successful transition from one state to two in a very short period of time.

The political developments leading to the breakup cannot be separated from the momentous "Velvet Revolution" by which Czechoslovakia was transformed in 1989 and after. Clearly, the circumstances of the simultaneous reinvention of civil society, the privatization of the economy, and the democratization of political institutions — a painful process that continues to unfold — do not apply to the Canadian case. And yet the overall political dynamics such as the role of political parties, the nature of negotiations, the issues to be resolved in separation, and the many other factors so ably laid out in this monograph, illustrate a daunting set of requirements for the success of any venture to peacefully separate or secede from a federal union.

Such momentous and complex events can only be understood by examining both the big forces at work as well as the detail of historical progression. The description and analysis do not require a prior knowledge of Czechoslovakian politics or history. And, this text provides rich detail from primary accounts as well as providing the minimum essential of context within which to place events. The monograph has been written for the Canadian reader. Apart from the conclusion, the text hardly mentions Canada. By and large, the author leaves the task of recognizing analogous situations and drawing conclusions to the reader.

That having been said, several features of this study bear repeating and will provide important lessons for Canadians, regardless of one's position with respect to the secession of Quebec.

To begin with, this study confirms a set of features which in other work Young concludes has characterized cases of peaceful secession (and which by inference might lead to non-peaceful outcomes if these conditions do not prevail). These include:

- protracted constitutional negotiations before the fateful step of secession is taken;
- a declaration of intent to secede by the seceding state;
- the acceptance by the predecessor state of the principle of secession, followed by negotiations.

Further, secessions, even when peaceful, are momentous and galvanizing events. Politically, there is a tendency for broad political coalitions to form and close ranks on both sides. Other characteristics of peaceful secessions are:

- the negotiations which involve few participants;
- a settlement is reached quickly and on relatively few items;
- foreign powers and international institutions play important roles;
- secession occurs constitutionally, and with minimal other constitutional changes;
- the rapid divergence of policies of the two states; and
- secession is irrevocable.

The author also notes some special aspects of the Czech-Slovak case which add important qualifications to the above list. In particular, the Slovaks were not clear about their intent to secede until relatively late in the game, and their vacillation and uncertainty hindered settlement of outstanding constitutional differences within the federal union. Also the political leadership became polarized and it was radical politicians who forced the pace of events. In this situation they preferred to maintain tight rather than broad representative coalitions with just enough support to get their measures through the political institutions. Also important was a series of symbolic events, some led by very small groups, which drove the two populations apart.

Finally, there are some specific aspects of the institutional and political circumstances of Czechoslovakia which, in the author's view, bear noting from a Canadian perspective. First, the political institutions of the federal government were weak, fragmented and hampered by cumbersome voting rules — in the end the federal power simply dissolved. Second, the breakup was driven by political polarization of intensely partisan groups who engaged in "mutually profitable antagonism." It was in the partisan interests of these groups to avoid

an appeal to the wider constituency, including the refusal to hold a referendum on the act of secession. Third, as noted above, the breakup illustrated the complex modalities of separation in a highly integrated modern state. Fourth and last, the dynamics of bargaining favoured the party that was most willing to allow the negotiations on a compromise position to fail. In this respect, until it was clear that Slovakia was actually leaving, the Slovaks drove the pace and course of events; after the secession was accepted by the Czechs it was they (the more populous and prosperous partner) who tended to dictate the terms of the secession and of the continuing relationship.

The briefest perusal of these points will underscore why the Institute is publishing this monograph at this time. In the current debate in Canada a pessimist may predict that new information will be interpreted with partisan intent by competing camps. But we feel that the present study maintains a strongly analytical stance and provides the results of research in an even-handed manner. Such analysis can only contribute to a more informed and balanced debate.

The research undertaken by Professor Young on behalf of the Institute of Intergovernmental Relations is part of a broader work by the author on the process of peaceful secession, the potential dynamics of the transition to Quebec independence, and the long-term relations of Canada and Quebec. The Institute's involvement in this has been supported in part by The CRB Foundation, and we gratefully acknowledge their role.

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This study is appearing under the Institute's *Research Papers/Notes de recherche* series. This series consists of scholarly publications on a broad range of subjects touching on federalism and related social, political, and economic issues. All contributions to this series are peer-reviewed.

Douglas M. Brown  
Executive Director  
June 1994

## ABSTRACT

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The breakup of Czechoslovakia provides one of the few examples of the dissolution without civil war of a highly integrated federal state. This monograph provides the details of the separation of the Czech Republic and Slovakia for the Canadian reader. Placed in the framework of research on other cases of peaceful secession, this study reveals political dynamics such as the role of political parties, the nature of negotiations, and the issues to be resolved in separation. It illustrates a daunting set of requirements for the success of any venture to peacefully separate or secede from a federal union. These include the existence of protracted constitutional negotiations before the step of secession takes place; the clear declaration of intent to secede and the acceptance in principle of secession by the predecessor state before negotiations begin.

The case of Czechoslovakia illustrates a number of special aspects. The Slovaks vacillated a long time before clearly declaring their intent to secede. The process was greatly assisted by mutually profitable antagonism between two main political groups which polarized the political climate — and who achieved separation without a referendum. The institutions of the federal government were weak to begin with and federal power dissolved in the face of Czech-Slovak polarization. The actual negotiations for separation were over in a few weeks, involved few players and relatively few issues and were dominated by the interests of the stronger Czech side. The study holds important lessons for Canada.

## AUTHOR'S PREFACE

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This study represents a substantial detour from my normal work on the Canadian constitution. I think it has been worthwhile, and I am grateful to Ron Watts for suggesting that an inquiry into the end of Czechoslovakia would deepen my understanding of federal systems and their demise.

I am also grateful to several friends and colleagues for commenting on an earlier version of this work. They include Doug Brown, Cris de Clercy, Andrew Cooper, Neil MacFarland, Peter Leslie, Peter Neary, John McCallum, and John McDougall. I also have appreciated the comments of anonymous referees. Allison Bramwell and Andrew Goldstein provided research assistance. The Social Sciences and Humanities Research Council of Canada supplied essential research funding. Flaws remaining are mine alone.

Many people with many motives have waited for this and other texts. Thank you for your patience.

## THE BREAKUP OF CZECHOSLOVAKIA

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### I. INTRODUCTION

This study has a straightforward purpose — to present to a mainly Canadian readership an account of a recent case where a federal state disintegrated peacefully. At midnight on 31 December 1992, the Czech and Slovak Federal Republic ceased to exist, and the new sovereign states of Slovakia and the Czech Republic came into being. This monograph is about how such a remarkable event came to pass.

But this work is not intended to be a contribution to East European studies. It contains little original research, and the analysis is conducted so as to illuminate peaceful secessions in general and the potential secession of Quebec from Canada in particular. This possibility is currently dominating the political agenda in Canada, and many analysts are interested in comparative cases: here is one, described as fully and fairly as possible. Throughout the account of the Czech-Slovak experience, and in the conclusion, some implications for Canada are drawn more or less implicitly, and a concern with Canada undoubtedly infuses the description of events. But the treatment also rests on broader comparisons.

The bulk of the description is organized around a set of propositions about peaceful secessions. These were derived from another study of the few comparable cases of this phenomenon, an analysis that was undertaken in order to shed light on the general question of how peaceful secessions happen.<sup>1</sup> That study, like the current one, was conducted in the belief that the process through which secession occurs is extremely important in determining not only whether the event is peaceful but also what the long-term relationships between the separating units are likely to be. In political-science terms, this means, first, that political actors have a high degree of autonomy when fundamental issues about the definition of the community are being decided, and, second, that the choices actors make, especially about institutional arrangements, have consequences that reach far into the future.

As will be seen, the breakup of Czechoslovakia departs from the inductive generalizations derived from other cases in several interesting ways, although

most of the principles are borne out in this instance. This makes the basic patterns characteristic of peaceful secessions seem more likely to obtain here, should Quebec secede from the rest of Canada; on the other hand, the exceptions are also very suggestive.

It must be acknowledged immediately that Czechoslovakia — as the country was called for most of its history — existed in a different international context than Canada, and its citizens faced very different problems than those obtaining here. Moreover, the remarkable disintegration of Czechoslovakia was less the secession of one unit from a larger federation than the separation of two similar entities, and this is one major difference from the Canada-Quebec case. And yet the experience of the Czechs and Slovaks deserves close attention. It provides intriguing lessons for Canada as well as precedents both useful and disquieting.

The lessons are several. The Czechoslovak case shows the importance of institutions in shaping political conflict and in making it more or less amenable to compromise. It illustrates the dynamics of polarization, and reminds us that strictly partisan considerations always are associated with the positions that are so often attributed to states or peoples. In the Czech case, the two key leaders, Vaclav Klaus and Vladimir Meciar, benefited from “mutually profitable antagonism” as they pushed each other into winning political positions through a dynamic of polarization. In this case, too, one sees the process of disengagement between states that were highly integrated and relatively modern, and the modalities of such a separation are worth close scrutiny. The bargaining over the terms of separation is also instructive: the Czech-Slovak case shows how the advantage lies with the side most prepared to accept a non-compromise outcome and how this places a premium on solidarity and determined leadership. Finally, it is evident that the Czech-Slovak separation was greatly eased by the fact that the federal government could simply wither away as power flowed to the republics. The secession of Quebec from Canada would raise far more complex political and constitutional problems than those solved — barely — in Czechoslovakia.

The rest of this paper explores these matters, first, by introducing the country and its particular context. In chapter III, special attention is devoted to the party fragmentation and polarization that marked the pre-separation years. Then in chapter IV, the bulk of the study, the generalizations that were inductively derived from other cases of peaceful secession are taken up in the Czech-Slovak context: each generalization organizes a subsection. A brief conclusion summarizes the principal findings.

## II. CZECHOSLOVAKIA

### BASIC HISTORY

After the collapse of the Austro-Hungarian Empire, and with the agreement of exile organizations, local political formations and the Great Powers meeting at Versailles, Czechoslovakia emerged as an independent state with its own constitution on 29 February 1920. This allowed the Czechs more autonomy from the Austrians and the Germans, while the Slovaks — who in historical memory had never been a self-ruling, or “historic,” nation — were able to escape from Hungarian domination. The Slovaks, who comprise one-third of the population, found only limited autonomy devolved to them under the “Czechoslovakianism” of the new state led by Jan Masaryk and Eduard Benes (Saladin 1991, 195-201). In the 1930s, their nationalism and conservative Catholicism were ignited by the Hlinka Slovak People’s Party, which seized power in 1938 and declared independence, with Hitler’s blessing, on 14 March 1939, one day before Germany completed its occupation of the Czech lands (10).<sup>2</sup> The fascist state under Josef Tiso endured until 1945. Then, the Slovaks were recognized as a separate nation, but obtained only limited, asymmetrical arrangements for self-rule within the Czechoslovak state, arrangements that continued after the Communist *putsch* in 1947-48. There was some devolution from the central government to the Slovak National Council and the Board of Commissioners, but there was no equivalent of these bodies in the Czech lands; similarly, there was a Slovak Communist Party and a Czechoslovak party, but no Czech party.<sup>3</sup> The 1960 “Socialist Constitution” centralized power. But after the 1968 liberalization led by Alexander Dubcek, a truly federal constitution was enacted: it took effect on 1 January 1969. This created Czech and Slovak National Councils, with executives and some legislative power. It also stated that the country was “founded on the voluntary bond of the equal, national states of the Czech and Slovak nations, based on the right of each of these nations to self-determination”; another section refers to “two independent, sovereign nations” (Barbieri 1992, 110, FN144). Over the next 20 years, however, during the “normalization” period following Soviet intervention, the country was effectively centralized both economically and politically, under the control of the Communist Party. Within this regime Slovakia experienced rapid economic growth, and there were expanded opportunities for Slovaks to enter both their national and the federal bureaucracy (10, 12).

The turmoil that swept the Soviet Union and Eastern Europe in 1989 was late to arrive in Czechoslovakia but it was very powerful. Anti-communist agitation, demonstrations and petitioning took place, and political organizations proliferated. After police repressed a student demonstration on 17 November huge



counter-demonstrations followed, propelled by groups united within the umbrella organization Civic Forum, founded on 18 November (1). Fronted by Vaclav Havel, the dissident playwright, Civic Forum (CF) had its Slovak counterpart, the Public Against Violence (PAV), and as pressure mounted throughout the country against the regime, sweeping changes — the “Velvet Revolution” — happened in short order. The old Communist leadership resigned, the party’s constitutional “leading role in society” was abolished by the Federal Assembly, two new governments were formed (the second with a non-communist majority), political prisoners were granted amnesty, Dubcek became Chairman of the Federal Assembly, and Havel was elected president (Keesing’s, November 1989, 37026-7; Keesing’s, December 1989, 37106-7; Draper 1993a). After the Communists pulled 120 deputies out of the Federal Assembly, and they were replaced with nominees of the opposition, substantial personnel changes began to occur in the state administration (2, 5-6; Keesing’s, September 1991, 37737).

Through all this, the organs of the state remained intact. The Federal Assembly comprised the House of the People (150 members, 99 from the Czech Republic and 51 from Slovakia) and the House of Nations (75 members from Slovakia, and 75 from the Czech lands), both elected by proportional representation. Constitutional changes required a three-fifths majority in each of the three chambers. The Assembly chose the president. The president chose the prime minister, who assembled a government capable of maintaining the confidence of the Assembly. At the republic level, the system was paralleled, except that the National Councils were unicameral (with 150 members in Slovakia, and 200 in the Czech Republic), and presidential functions were fulfilled by each Council’s Presidium. Under this system, generally, the influence of party is very strong: the proportional representation system strengthens the party leadership, coalition government makes interparty negotiation frequent and decisive, and the legislative leadership of the parties collectively exercises important functions (through the posts of legislative chairman and Presidium membership).

#### EXCEPTIONAL FEATURES OF THE CZECH-SLOVAK CASE

With Communist rule swept away, the Czechs and the Slovaks faced daunting challenges at the start of 1990, and it was through these, and against their backdrop, that the separation played itself out. They constitute the unique features of this case.

One problem was the political residue of four decades of Communist control. Party members deserted in droves, but the party continued to exist. Meanwhile, new political formations flourished. Tremendous political energy was suddenly

unleashed in the run-up to the first free elections in June 1990. In some cases, new participants lacked experience in basic democratic norms and arts, and had to grapple at the same time with the practical problems of political organization. Expatriates returned too, with foreign experience: the Czechoslovak Social Democratic Party, for example, elected as chairman a political science professor from Manhattan College over a domestic dissident (3, 18). Another residue, often deeply personal at bottom, was the desire to settle old scores from the Communist era (Ulc 1992, 32; Draper 1993a, 19-20). For moderate left parties, a difficult issue was whether to admit former Communists as members. Similarly, coalition-building was constrained as some parties would not ally with others that had been allied with the Communists before their overthrow. Finally, there was the issue of active collaborators. Two days before the June 1990 elections, for example, the leader of the People’s Party was accused of having worked with State Security (Keesing’s, June 1990, 37542). As well as affecting the vote at the last minute, these allegations led this party and its allies — the Czech Christian Democratic Party and the Christian Democratic Movement in Slovakia (CDM) — to refuse to join the governing coalition in the Federal Assembly (7, 10). The CDM relented, but in an important personal decision their leader, Jan Carnogursky, chose to participate in the Slovak National Council and the Slovak government rather than in their federal counterparts. Similarly, charges of collaboration and abuse of power were made against the Slovak leader, Vladimir Meciar, on several occasions, including the crucial period before the June 1992 elections (30). So the past cast a bitter shadow on elite relationships, and lent at times a sinister air to the political forces and the competition emerging in the new democracy.<sup>4</sup>

Apart from this was the massive legal and administrative overhaul necessary to provide the infrastructure for democracy and economic reform. The task was “nothing less than to reconstruct completely a whole society” (Musil 1992, 178). In feverish law-making throughout 1990, the interconnected Communist system was dismantled (Schwartz 1991). The regional administrative bureaus were abolished, and a new system of elected local government established (6, 3-4). Laws reformed the administration, army, police, the educational system, the civil and penal codes, and the judiciary (11). Others re-regulated the organs of civil society, including the church and trade unions. Under President Havel’s leadership, a sweeping Bill of Fundamental Rights and Liberties was adopted by early 1991 (15). A particularly difficult legal matter was how to make restitution of property seized by the Communists. Here the claims of justice met the need for economic reform (and state liquidity). The widespread impact of restitution, which involved the return of property worth \$10.7 billion, delayed a settlement of the issue until February 1991 (16, 5-7). All this law-making was done amidst deepening constitutional uncertainty and political

polarization, and the urgency of the tasks and the makeshift nature of some legislative solutions did nothing to alleviate these deeper problems.

At the same time, Czechoslovakia had to find its place on the shifting world stage. This required much negotiation and the conclusion of many new treaties with neighbouring countries, the ebbing Eastern bloc, and various international organizations. The departure of Soviet troops had to be negotiated, along with the termination of Warsaw Pact and COMECON commitments. The country made agreements with the International Monetary Fund (IMF) and the World Bank, joined the Council of Europe, became an associate member of the European Community (EC), and commenced discussions with NATO — all within 18 months of the revolution. Bilateral treaties were signed with Poland, Italy, Germany, and the Soviet Union. All these accords, of course, constrained policy autonomy in various ways and involved specific commitments; hence they aroused domestic political disputes. And the reorientation happened exceedingly fast. On the first anniversary of the Velvet Revolution, President George Bush was euphorically addressing the crowds in Wenceslas Square, having already extended most-favoured-nation status to the country (Keesing's, November 1990, 37866).

Finally, the country undertook a rapid transformation towards a market economy. There was a strong consensus that the transformation was necessary, but debate about its speed was intense and divisive. Some commentators have seen the economic dislocation of 1990-91 as a powerful cause of the Czech-Slovak separation, and both change and uncertainty doubtless were contributing factors (Svec 1992, 379; Draper 1993b, 22-3). As well as establishing property rights and commercial freedom, the government had to make basic decisions about price controls, subsidies, agricultural cooperatives, currency convertibility, trade relations with COMECON and the West, foreign investment, the state budget, and the privatization of state companies. These decisions deeply affected people's lives and prospects. In July 1990, one month after the elections, food prices rose 25 percent after subsidies were reduced, and it became clear that the coalition government (Civic Forum-Public Against Violence-Christian Democratic Movement in Slovakia) intended to move quickly on reform (Keesing's, July 1990, 37620). In the government were four committed free-marketers, including Vaclav Klaus, the minister of finance. Under its Scenario for Economic Reform, the government proceeded to auction off thousands of small state enterprises (the "small privatization"), to reduce subsidies (thereby exposing firms to bankruptcy), and to de-control prices. The main effects were felt in the first half of 1991. Consumer prices leaped 26 percent in January and continued to rise. Overall in 1991, GDP dropped 14 percent, investment was off 35 percent, inflation was 58 percent, real wage growth was -24 percent, and unemployment was 6.6 percent (28, 31). But

inflation was largely under control by the end of the year. Despite delays in the large privatization program (which was eventually accomplished by selling vouchers to exchange for shares in some 1,490 companies), the economic situation clearly was improving by autumn 1992: inflation was about 10 percent, unemployment stood at 5 percent, and both republics were running trade surpluses (45, 88).<sup>5</sup>

Nevertheless, the government's policy provided a focus for the attacks of nationalist politicians, and economic uncertainty helped them find support. By the autumn of 1990, the Slovak premier, Meciar, was criticizing the federal program as "unsuitable for Slovakia" (17, 3). The CDM demanded higher state subsidies to prevent bankruptcies (17, 7). Slovakian federal deputies strongly resisted the large privatization. In general, a rapid transition was opposed by the left throughout the country and by Slovak nationalists, who objected to a program imposed from the centre that, they claimed, did not suit Slovak conditions.<sup>6</sup>

The transition was indeed harder in Slovakia. Inflation was running about 5 percent higher there in early 1991, and production dropped more quickly. According to a Slovak government report on the effects of separation, the republic's GNP dropped 37 percent in the first six months of the year, while the Czech figure was 21 percent (29, 35). There was much less public job creation than in the Czech republic — though this was partly a result of republican government inaction (28, 32). The Slovaks benefited from less foreign investment, getting only 20 percent, compared to their one-third of the population (24, 9). Most important, unemployment rose more sharply in Slovakia. It stood at 11.8 percent at the end of 1991, compared to 4.1 percent in the Czech republic, and by November 1992, the rates were 10.4 percent and 2.5 percent (28, 31; 45, 88). This was a very high level in an economy where employment for all had been a certainty, and economic anxiety surely helped provide a fertile ground for nationalist appeals against central control and "anti-Slovak" policy discrimination. Nonetheless, it would not do to magnify the severity of the economic situation or the differential impact of reform. According to official figures, output dropped by 20.6 percent in the Czech republic over the first nine months of 1991 and by 23 percent in Slovakia (25, 85). The situation was clearly improving throughout 1992. Most important, despite steep drops in living standards, and levels of unemployment that were frightening by traditional standards, reform was accomplished with very little unrest. The reform provoked no mass protests, major strikes or other threats to civil order. People saw it as a necessary path to a better life, and it was legitimized too as the price of freedom and democracy (Musil 1992, 185-89). Political forces tried to modify or delay the program, but the general public reaction was one of relatively calm acceptance, even in Slovakia.

Overall, though, the stresses of economic reform added urgency to the political situation.<sup>7</sup> Along with the residue of Communism, the massive task of legal and administrative restructuring, and the uncertain international position of the country, these stresses constitute the peculiarities of the Czech-Slovak separation. Despite these unique features, the case is most instructive.

### III. THE POLITICAL DYNAMIC

Secession is a political phenomenon. Analysts often refer casually to "states" or "provinces" that contemplate secession, or that actually do "break away," and in so doing it is easy to associate peoples as wholes with the geography they inhabit. Indeed the legal language surrounding secession encourages this, through references to nations and peoples as though they were solidary units. So the fallacy of composition pervades the discussion of secession (and in fact it is perpetrated by would-be secessionists who insist on the coherence of those they would lead to independence).

But secession is never accomplished by states. It is brought about by the choices of citizens and their political leaders, and those leaders are engaged in mobilizing support, through political organizations, in competition with leaders who make difficult analyses, appeals, and promises. The decisions that finally make for secession, and that determine its course, are likewise taken by leaders who are partisan, in the sense that they compete with others for support. This principle is abundantly clear in the Czech-Slovak case, and the political manoeuvring around the separation deserves close examination. As well, this is an instance where, as many commentators have noted, separation occurred despite the fact that most citizens did not want it; so it is said to have happened almost by accident, inadvertently. But while it is true that majorities in both Slovakia and the Czech lands consistently did not favour outright separation, the event was hardly accidental. It resulted from the choices made by political actors, and the public responses that their appeals elicited. Overall, the political process was marked first by the fragmentation of political forces, and then by polarization: these are taken up in turn.

#### FRAGMENTATION

The Velvet Revolution produced an efflorescence of political organizations. Within six weeks there were 40 registered parties in the country, and by July 1990, there were 100 (19, 2). Regional and ethnic parties emerged, but the main

axis of differentiation was how to proceed with economic reform, and how quickly. Binding many of these political forces together were three elements. First was the electoral law, a vital consideration in the run-up to the June 1990 elections. Parties needed 5 percent of the votes to gain representation (except in the Slovak National Council, where 3 percent was the threshold), and this was a strong incentive to form alliances. In the end, 22 parties and alliances contested the elections (8, 15). Second were the two major umbrella formations that had led the revolution, Civic Forum and the Public Against Violence. Each included many parties, clubs and looser organizations. CF and PAV essentially ran on a very broad platform — anti-Communism and economic reform. The third force for unity was President Vaclav Havel.

Havel enjoyed tremendous legitimacy as president. He imparted to politics a moral dimension that commanded respect. He was an effective representative on the international stage. For the most part he managed to transcend the partisan fray. And his popularity was sustained. Even in February 1992 he was the most popular politician in Czechoslovakia, and his appeal in the Czech Republic, at 80 percent, was higher than Vaclav Klaus's (64 percent); in Slovakia his rating of 53 percent was exceeded by only three politicians, among them Dubcek (65 percent) and Meciar (64 percent) (32, Tables 6 and 7). But Havel was unable to prevent the separation, in part because he was insufficiently partisan. He did not take the lead to transform CF and PAV into normal political parties, and they fragmented (Draper 1993b, 20-1). Further, he did not transform his legitimacy into a clear and firm demand for a referendum on separation, and the political formations opposed to such a consultation were able to resist until the breakup effectively was a *fait accompli* (Wilson 1993).

Civic Forum and PAV won convincingly in June 1990, when elections were held simultaneously for the federal chambers and for seats in the republican National Councils. Together CF and PAV took 170 of the 300 seats in the Federal Assembly, and they could govern easily with the support of the Christian Democratic Movement in Slovakia (which had split from PAV in early 1990). The federal premier was Marian Calfa, of PAV. Ominously, though, CF-PAV did not win a clear majority in the Slovak chamber of the House of Nations, and constitutional changes had to be approved by a three-fifths majority in this chamber. Apart from the Communists (with 47 seats), the other parties represented were ethnic and nationalist — the Association for Moravia and Silesia (16 seats), the Slovak National Party (15 seats), and Coexistence, an alliance of groups representing the 11 percent Hungarian minority in Slovakia (12 seats). In the Czech National Council, with 127 of 200 seats, CF had a clear majority, led by Premier Pitr Pithart. In the Slovak National Council, PAV had only 48 of 150 seats, and it formed a coalition government with the CDM (31 seats) and the Slovak Democratic Party (7 seats). The premier was Vladimir Meciar.

Noteworthy in defeat were two parties that had run "national" campaigns. Both the Greens and the Social Democrats failed to get 5 percent of the votes. Also surprising was the strong showing of the Slovak National Party (SNP), which took almost 14 percent of the vote and 22 seats in the Slovak National Council as well as 15 seats in the Federal Assembly. Compared to pre-election polls, this result suggested that the nationalistic SNP had eroded the Christian Democrats' support (4, 14).

After an election that had been an anti-Communist referendum in some respects, fragmentation soon commenced. The Liberal-Democratic Party, with its two seats, split from Civic Forum only ten days after the election. The Christian Democratic alliance fell apart in the aftermath of the collaboration accusations and Carnogursky's decision to participate in the Slovak government. As parties held congresses over the summer the process continued. The Socialist parties could not unite. Even the Communists abandoned asymmetry by creating the Communist Party of Bohemia and Moravia. There was a great deal of uncertainty about the program and organization of Civic Forum, but it was decided finally not to establish a normal hierarchical and disciplined party (8, 15-16).

Fragmentation continued before and after the municipal elections, held in November 1990. After Vaclav Klaus became Chairman of Civic Forum in October, a group of its right-leaning deputies formed the Inter-parliamentary Club of the Democratic Right, which provoked others in the organization to create the Liberal Club of the Civic Forum. At a January 1991 CF Congress, Klaus and his allies succeeded in pushing through a resolution to create a party from the movement. Members of all groups allied within CF would have to join the party directly. As a result, organizations like the Club for Socialist Restructuring and the Engaged Nonpartisans quit CF. But the Liberal Club resisted. At a special congress in February, the Liberal Club became the Civic Movement, retaining the old, loose organizational form, while Klaus's group became the Civic Democratic Party (CDP), a normal, right-of-centre political party (18, 10-11; Draper 1993b, 20-21). Civic Forum originally was to continue as a loose umbrella for the two formations, but its federal caucus ceased to hold together by April 1991. The weakness of the Civic Movement was further shown when six deputies defected to the Social Democrats.

In Slovakia, the Public Against Violence also split, even though it had been more tightly organized than Civic Forum. This was caused by Meciar. In February 1991 he attempted to become chairman of PAV, to make it a formal party, and to emphasize the nationalistic elements of its platform. Members rejected these initiatives. Amidst accusations about his use of secret police information to blackmail ministers, Meciar and 14 others walked out of an emergency meeting of the Slovak Council of PAV on 5 March (FBIS, 6 March

1991, 29-33). His splitting PAV was a major strategic move, which fuelled a crisis developing in Slovakia. The premier was soon supported by nationalist and leftist groups, though his position on national and economic matters initially was ambiguous.<sup>8</sup> Meciar's new group, the Movement for a Democratic Slovakia (MDS), emerged in May as a separate party, and counted 17 federal deputies in its caucus. The premier, however, had been dismissed from his post by the Presidium of the Slovak National Council on 23 April. He was replaced by Jan Carnogursky of the Christian Democratic Movement (CDM).

As a consequence of this fragmentation, by mid-1991 the Federal Assembly contained representatives of 12 major parties rather than the six seated after the 1990 elections (18). And all had the June 1992 elections in view already. Then, there were 42 parties competing, and they sought support from a populace disaffected from party politics. In the month before the election, polls showed 32 percent of the citizenry were dissatisfied with parties in general, while another 29 percent were "disgusted with politics" (32, Table 4).

#### POLARIZATION

Political formations in Czechoslovakia polarized as well as fragmented. Parties responded to shifts in public opinion so they jockeyed for position, and of course their own conflicts, programs, analyses and rhetoric helped move opinion. After the June 1990 election, when constitutional revision came onto the political agenda, a poll found that only 6 percent of the population — 5 percent of Czechs and 8 percent of Slovaks — favoured dividing the country into two independent states. The responses broke down as follows.<sup>9</sup>

| <i>Preference</i>  | <i>Throughout<br/>Czechoslovakia<br/>%</i> | <i>Czech<br/>Republic<br/>%</i> | <i>Slovak<br/>Republic<br/>%</i> |
|--|--|---------------------------------|----------------------------------|
| Common state with large powers vested in central government                    | 33   | 42                              | 16                               |
| Common state with large powers vested in Czech and Slovak national governments | 34   | 30                              | 41                               |
| Confederation  | 21   | 16                              | 30                               |
| Two completely independent states  | 6  | 5                               | 8                                |
| Do not know or other alternatives  | 6  | 7                               | 5                                |

Hence 72 percent of Czechs and 57 percent of Slovaks favoured a federation. The ill-defined "confederal" option, which was often vaguely associated with sovereignty, attracted twice as much support in Slovakia as among Czechs, but still only 30 percent of Slovaks favoured confederalism or sovereignty, and only 8 percent approved of outright independence.

On the other hand, there was more latent dissatisfaction among Slovaks with the current economic situation and with the new regime itself. A 1991 poll found 41 percent of Czechs and 29 percent of Slovaks rating their family's situation as satisfactory; 62 percent of Czechs and 39 percent of Slovaks preferred the current system of government to the previous one; and 63 percent of Czechs and only 20 percent of Slovaks felt that the current government treated Slovaks fairly.<sup>10</sup>

Slovak voters were inclined to support nationalist parties. In 1990, the Slovak National Party took 13.9 percent of the republican vote and 11 percent of the Slovakian federal vote. The SNP soon moved to clear advocacy of independence, and polls showed its support increasing by September, to around 18 percent (10, 5). This pushed the CDM, which had lost support over the preceding six months, to take a more strongly nationalist position (Draper 1993b, 22). One context of radicalization was a crisis over language. German, Ukrainian, Polish, and Hungarian minorities had rights under the federal constitution to communicate with government "in accordance with the provisions stipulated by law" (12, 14). The governing Slovak coalition was pressed by strong nationalists to make Slovak the sole official language and to restrict minority rights. In the end, the National Council passed a more moderate law, but one that still did make Slovak the official language, limited non-Slovak official communications, and eliminated official bilingual signs. This took place amidst street demonstrations by thousands of SNP supporters, counter-demonstrations, hunger strikes and university boycotts (12).<sup>11</sup> As more radical movements were emerging and polls showed SNP support climbing to around 30 percent, the Christian Democratic Movement shifted to advocate more autonomy for Slovakia and to envisage eventual sovereignty.<sup>12</sup> The party was rewarded in the November 1990 municipal elections when it took 27 percent of the vote and more seats than PAV, which took 20 percent of the vote (17, 2). The SNP fell to 4 percent (Keesing's, November 1990, 37865). Premier Meciar, in turn, adopted a more firmly autonomist stance in negotiations over the constitution.

By January 1991, only 9 percent of Slovaks favoured splitting Czechoslovakia into two independent states (17, 2). But polarization proceeded. Meciar attacked the federal economic plans, and so created much tension between Civic Forum and PAV (14, 7-8). After defeat in his effort to assume the PAV leadership, Meciar's allies criticized PAV as the "mere executor of concepts" formu-

lated by federal leaders (17, 3). His walkout from PAV on 5 March took place as nationalist agitation was intense, and the statement that his Movement for a Democratic Slovakia would place priority on national concerns contributed to the unrest, as well as attracting support from leftist anti-reform groups. Large demonstrations occurred on 6 March, and the next day intellectuals and the SNP published the Declaration of the Sovereignty of Slovakia, and demanded that the Slovak National Council approve it (FBIS, 12 March 1991, 11). The Declaration envisaged full Slovak independence, asserting that Slovak laws would take precedence over federal ones. Slovakia would endow itself with a separate army, currency, and foreign policy before signing a treaty on a common state with the Czech Republic (17, 5-6). As demonstrations continued, and the implications of Meciar's split from PAV became clearer, Havel's press secretary referred to the emerging left-nationalist coalition as "national socialism" (17, 8). Indeed, on 13 March, a crowd of thousands consecrated a cross on Tiso's grave, and the next day 5,000 gathered in the Slovak National Uprising Square in Bratislava to hear a recording of Tiso's speech proclaiming Slovakia's independence 52 years before (17, 8).<sup>13</sup> Unexpectedly, Havel appeared at the rally, but he was jostled and shouted down; in a television address he later advocated a referendum to decide the independence issue and warned against unconstitutional secession. "I have no right to force you" to remain in Czechoslovakia, he said, "I, however, have the right, and I have even a duty to ask you to decide on your destiny in a lawful and orderly way." (FBIS, 15 March 1991, 18)

Although he was dismissed as premier after this stage of the crisis, Meciar's break to form the MDS was a crucial move in polarization. Constitutional discussions were intense in early 1991, and the Christian Democratic Movement had advocated a constitution with a weak central government, to be preceded by a "state treaty" between the two republics. Since the Slovak Communists were resistant to a strong federation that could drive rapid reform and the SNP was overtly sovereigntist, this meant that three major parties with a total of 75 of the 150 seats in the National Council favoured a "bottom up" or confederal approach to redesigning the common Czech-Slovak state. By breaking from the federalists and PAV, Meciar could hope to capture nationalist support and take the lead of this imminent majority, remaining more moderate than the SNP (which was seen to have erratic leadership) and less tarnished than the Communists. He could also drive a wedge into the CDM.

On 14 March, the constituent committee of his new group advocated a federation created from below by the republics as a stage in building a "sovereign and democratic Slovak Republic" (17, 7-4). Then, after losing the premiership, Meciar was in the ideal situation of being able to criticize federal government policies while not taking any responsibility for them, and he could

position well his MDS on the constitutional front, by advocating both sovereignty and a vague confederal form of association between the republics. In September 1991, for instance, he rejected the compromise outcome of the Bratislava talks between the Presidiums of the two National Councils, declaring that Slovakia should adopt its own constitution because "the time has come for the Slovak Republic to demand its right to self-determination and achieve sovereignty" (22, 8). As the CDM and the loose remnants of PAV suffered internal tensions by having to take responsibility for fundamental decisions, Meciar gained the upper hand: by January 1992, the MDS had the support of 30 percent of Slovaks, while the Communists were at 16 percent and the Christian Democratic Movement had 13 percent (27, 6).

On the Czech side, confronting radical Slovak thrusts, government incoherence, and delay of economic and constitutional decisions, there was partisan advantage to be won by taking a firm position. Czech public opinion strongly favoured the continuation of the federation, with substantial powers for the central government. Federalist forces were dominant within both the government of the Czech Republic, led by Petr Pithart of the Civic Movement, and the central coalition government, led by Marian Calfa of PAV. The government of the Czech Republic generally took a pragmatic and conciliatory line on constitutional matters through 1990 and early 1991, and on the federal front, the negotiations in 1991 over the "state treaty" between the two republics were effectively led by Havel and leaders of the federal coalition. Soon after the formation of the Civic Democratic Party, however, Klaus and his party rejected the notion of a state treaty, stood against having the republics ratify the federal constitution, and declared that only a "functional" federation would be acceptable to Czechs (20, 14). In short, he advocated the status quo or even a more centralized federation. As fruitless talks continued on the fundamentals of the arrangements between the two states, Havel resorted once more to calling for a referendum, with the clear message that either progress would be made or the common state should be dissolved "in a civilized manner" (23, 13). At this point, some initiative slid towards republican leaders who aimed to safeguard Czech interests, by questioning, for instance, the subsidization of Slovakia (23, 13). At the federal level, Klaus's position was equally firm, though his party did not stand entirely alone on the need for a strong federation. After further inconclusive talks, on 5 November 1991, the federal government listed its own minimal requirements for the common state, including, notably, the unity of the economy in terms of currency, tariffs, economic laws, and macro-economic regulation (24, 11). A subsequent conciliatory address to the Slovaks by Czech Premier Pithart was roundly condemned by the Civic Democratic Party as offering too many concessions and leaving the door open to confederalism. Klaus's line was clear and hard. He stood squarely against unrealistic Slovak

demands and damaging delays in settling economic and constitutional issues. By the end of 1991, right-wing and centralist parties were strongest in the Czech republic. Klaus's CDP had 20 percent support, twice that of its nearest rival (26, 6).

In February 1992, an *ad hoc* commission established by the Czech and Slovak National Councils reached agreement on a draft state treaty. But it was rejected three days later by the Presidium of the Slovak National Council, as the CDM split over this agreement, which presumed the continued existence of the common state: four of its Presidium members voted against the treaty. Their leader, Carnogursky, supported the treaty, but was attacked by nationalist politicians, including Meciar, who said, "I am afraid that in order to be able to say that he has done something, Mr. Carnogursky sacrificed the basic interests of the Slovak Republic, to be able to present a certain document that he was able to get through. This is not allowed." (FBIS, 18 February 1992, 11) In the wake of the vote, the Slovak National Council suspended further talks. The federal prime minister, Marian Calfa, declared that the separation of the Czech and Slovak Republics had begun with that rejection: it was an historic move towards the breakup of the state: "[i]n my view we have now set in motion a centrifugal process for the two parts of our common state — the Czech lands and Slovakia." (29, 38; FBIS, 19 February 1992, 4) And indeed this was true. Polarization increased in the period leading to the elections of 5-6 June. Support drained from the centre and flowed to the political formations that had most staunchly defended autonomy for Slovakia, on the one hand, and a "functional federation" that could continue economic reforms, on the other. During the campaign, while not calling for complete independence, Meciar did advocate a declaration of Slovak sovereignty, a Slovak constitution, and a president of Slovakia, as well as a Slovak central bank. Klaus's CDP and its right-wing allies rejected such measures, calling for a complete split if an effective central government could not be maintained because of Slovak intransigence (34, 29-30).

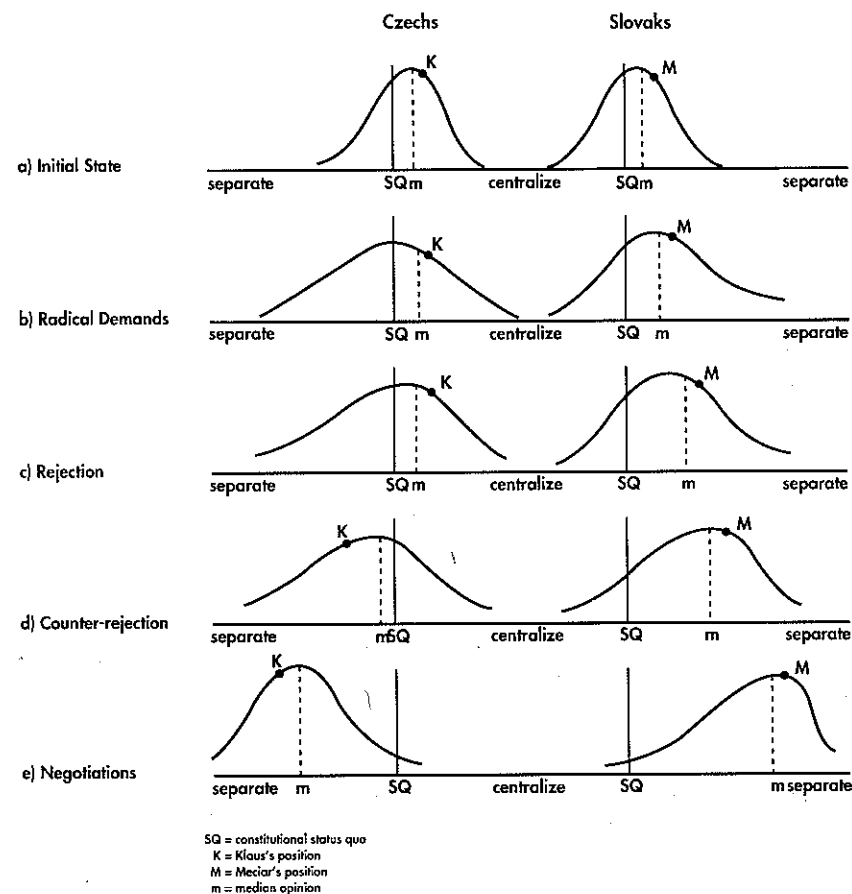
The 1992 election results completed the polarization at the political level (Wightman 1993). First, only two parties campaigned in both parts of Czechoslovakia: one was the extreme-right Republicans; the other was Klaus's CDP. Second, the existing federal political elite was massively rejected, as only 17 percent of the Federal Assembly's deputies were re-elected. Klaus was the only Cabinet member returned. Third, the centrist parties were eliminated as a force. The moderate successors to CF and PAV (the Civic Movement and the Civic Democratic Union-Public Against Violence) got less than 5 percent of the vote and no seats. The Slovak CDM received only 9 percent. The Communist parties managed 14 percent in each republic, but the Social Democrats got less than 5 percent in Slovakia and only 8 percent in the Czech lands. Finally, the

victors were Klaus and Meciar. The CDP-Christian Democrat alliance took 34 percent of the Czech vote, securing 48 of 150 seats in the House of the People and 37 of 75 in the Czech chamber of the House of Nations. Meciar's MDS took 34 percent of the Slovak vote, winning 24 seats in the House of the People and 33 of the 75 seats in the Slovak chamber of the House of Nations. The MDS had allies in the nine SNP deputies in the Slovak chamber and the 13 Communists as well as Dubcek's five Socialists, but even without them it could block any constitutional change at the federal level. Of equal significance were the republic results. Klaus's CDP got 30 percent of the votes and 76 of the 200 seats in the Czech National Council. Meciar's MDS took 38 percent of the votes and 74 of the 150 Slovak National Council seats (Keesing's, June 1992, 38944-5; 33). These results suggested, and initial discussions confirmed, that forming a federal government with any positive and coherent program would be impossible, as it would have to consist of Czech rightists and Slovak leftists and nationalists. After intensive talks with Meciar, Klaus declared he would abandon the federal level and stand for premier of the Czech National Council. The centre, in all senses, would not hold.<sup>14</sup>

With polarization so complete, it remained to work out the separation arrangements. What is worth re-stating is that public opinion was far less extreme than the positions taken by politicians. On the national question, there was not a majority in favour of separation in either republic. Even ideologically, despite the bitter disagreements between the CDP and MDS leaders, it seems that there were no huge differences between Czechs and Slovaks: in the spring of 1992, 36.2 percent of the former were centrist and 26.5 percent were on the right, while the Slovak figures were 41 percent and 15 percent (32, Table 3).<sup>15</sup> Party fragmentation and the disorganization of the centre had helped bring aggressively led, extreme formations to power in each republic. The main dynamic was one of mutual repulsion, or, more accurately, "mutually profitable antagonism."

There are several elements to this phenomenon, which is sketched in Figure 1. First, radicals open up new, extreme positions (like publishing the Declaration of the Sovereignty of Slovakia or celebrating the Tiso state). This expands the parameters of discourse on the constitutional dimension, and in the absence of a strong countervailing defence of centralization or the status quo, the median opinion shifts toward separation. Equally important are the effects on the other populace — the Czechs. The median opinion there may not move much, but the range of opinion also broadens. A rejection by Czech leaders, not only of extremism, but also of softer decentralist or confederal options (as in late 1991), then further shifts the Slovak median position. Antagonistic rejection of the status quo by the Slovaks then pushes Czech opinion towards separation. In panel "d" of Figure 1, which roughly corresponds to the situation

FIGURE 1: Polarization of Constitutional Opinion



after the June 1992 elections, Meciar's position is depicted as continuing to be more extreme than the median Slovak opinion, while Klaus has shifted from being more centralist than the median Czech to being much more inclined towards separation. At this point, each leader is attempting to move his domestic opinion toward the extreme position. He does so by interpreting the moves of the other as showing there is no reasonable alternative than the extreme one that he favours. And difficult negotiations, insults, flat rejections, and threats all help consolidate each leader's domestic opinion while pushing the other's domestic constituency towards the position he advocates. Antagonism between the leaders is beneficial to each of them as opinion polarizes and consolidates.

#### IV. COMMON ELEMENTS OF PEACEFUL SECESSION AND THE CZECH-SLOVAK CASE

The headings that organize the material in this section are empirical generalizations that are derived from other cases of peaceful secession. The breakup of Czechoslovakia was a process that corresponds to most of them.

##### (1) SECESSION OFTEN FOLLOWS PROTRACTED NEGOTIATIONS

From the time of the Velvet Revolution, Czechoslovakia was in deep constitutional uncertainty, and negotiations preoccupied its politicians through to the June 1992 elections and beyond. The operative document was the 1969 federal constitution, but it was clear that major amendments would be necessary in order to eliminate Communist principles and to meet Slovak aspirations. The depths of the latter were shown in the spring of 1990 when the name of the state was at issue. The Federal Assembly adopted "Czechoslovakia," without a hyphen, and nationalist protests erupted in Bratislava. The awkward compromise eventually reached was to call the federation "The Czech and Slovak Federal Republic."

Serious constitutional negotiations began after the 1990 elections, when the federal government led by Calfa announced that new constitutions would be drafted for both republics and for the central government (Keesing's, July 1990, 37620). The first negotiations took place on 8-9 August at Trencianske Teplice. "Power sharing" was a central issue in these talks between leaders of the federal and republican governments. Some powers over matters like agriculture and metallurgy and local government had already been devolved to the National Councils in June, at the same time as several federal ministries were abolished

or merged, and it was agreed to establish ten commissions with a view to accomplishing further transfers by January 1991, as the Slovaks insisted (Barbieri 1992, 114-15). The precise parameters of decentralization were not settled, though it was clear that the central government would retain control over defence, the borders, civil and criminal law, money, prices, taxation, communication, transportation, the environment, and customs, and that it would be financed by direct taxes rather than republican subventions (13, 6).

The second issue concerned whole constitutions. Neither republic had one, and it was agreed that the federal constitution had to be rewritten. Originally, it was intended to integrate the power-sharing talks into this process, but the overall revision appeared both more complex and less urgent than settling concrete responsibilities, and the governments agreed to set a longer deadline — the next elections — to finish the constitutions (Schwartz 1991, 76-77). The distribution of powers, of course, had eventually to be enshrined in all three constitutions, so the processes could not really be disentangled. Also noteworthy is that there existed no coordinating authority for the constitutional revisions. Each government was to proceed with drafting, and, presumably, with ratification. The only coordinating mechanisms were Havel and the governmental and legislative leaders, but the first was a federal official and the others were susceptible to partisan considerations operating in both orders of government. Nor did the country have a supreme constitutional court. One was established in April 1991, but its jurisdiction was unclear (Keesing's, February 1991, 38018). Finally, other amendments could be made to the federal constitution, as ever, by the Federal Assembly. These could upset the work at the republic level, and yet they could be made on the easy assumption that they would be temporary, until the whole federal constitution was finalized.<sup>16</sup>

Meciar's attitude towards the initial power-sharing accord was lukewarm. It was denounced by the Slovak National Party, and then thrown into question throughout the autumn of 1990 as tension rose over the official-language issue and federal economic policy. Meetings were convened by Havel on several occasions, but when a draft distribution of powers was finally ready the federal government rejected it as too decentralizing. Emergency negotiations produced a compromise on 13 November, but there was still the chance of amendments to a draft that had several confederal elements. To ward these off, Meciar and other Slovak leaders apparently threatened to declare the supremacy of Slovak over federal laws (14, 7; Barbieri 1992, 117-18). As the CF-PAV coalition was shaken by this dispute, Havel intervened to warn of the dangers of separation, to condemn brinkmanship, and to urge the establishment of a constitutional court, passage of a law permitting referenda, and extension of his own office's powers. Setting these proposals aside, the Assembly did pass the power-sharing bill, with only a few amendments (to retain jurisdiction over national minorities



and churches, and emergency control over energy). But there were other matters upon which agreement had not been reached, such as whether republican authorities could declare a state of emergency, and the whole package could always be superseded by the fresh constitutions under preparation. The most important result of the dispute was to sharpen the conflict within the CF-PAV coalition (which still formed the core of all three governments), and especially between the Klaus and Meciar factions (14, 7-8).

The next major constitutional amendment was the Bill of Fundamental Rights and Liberties. This was based on many federal laws passed since the revolution. It was a sweeping bill, intended to be a fundamental affirmation of the shared values underlying the new regime, but sections such as those covering the right to life and proposals about the right to work were contentious. Once more, the Federal Assembly proposed amendments to drafts emerging from the National Councils. One disputed area was the section on the rights of nationalities, as it was unclear how this squared with the new Slovak language law or the nationality provisions of the division-of-powers amendment. Uncertainty about the central government's responsibility to protect their rights led the Hungarian minority deputies to boycott the final vote, which took place on 9 January 1991 (15). A last notable feature of the bill was that its preamble enshrined "the right of the Czech and Slovak nations to self-determination" (15).

The content of this national right became the focus of debate when, at initial talks convened by Havel to discuss the constitutions, on 4 February 1991, the Christian Democratic Movement in Slovakia called for the new federal constitution to be preceded by a state treaty between the two republics. Such a treaty would demonstrate the sovereignty of Slovakia, and would make the common state quite evidently a confederation built "from the bottom up." Moreover, it was argued, the federal constitution should be adopted after the republican ones. The federalist response was that if the three constitutions were not adopted simultaneously, not only could there be a serious constitutional discontinuity but the republics also might dictate the content of the federal constitution (Lukic 1992, 589-91). More important, neither republic was sovereign, so an interstate treaty could not be signed; if it were, then this would violate the existing constitution whereby sovereignty resided in the federal state. Alternatively, the federation might have to be abolished before the treaty to recreate it was signed. But this seemed absurd. As Havel put it, in words that could be read as old-style "Czechoslovakianism" by Slovak nationalists, "there was simply no Czech partner for such a treaty" (20, 12).

Further talks in mid-February and April took place in the context of the nationalist fervour in Slovakia that peaked in March. One feature of this crisis was the publication by intellectuals of the Declaration of the Sovereignty of

Slovakia, which was supported by the SNP and radical groups. Meciar's new MDS soon came also to support the "bottom-up" principle. In this crisis, Havel called once again for a referendum, and underscored the seriousness of the problem by stating that the "breakup of the state is an alternative we must think about seriously" (17, 7).<sup>17</sup> Havel himself introduced his own constitutional draft, which proposed substantial federal powers as well as a new upper chamber comprising the leaders of the republics — a clear attempt to introduce elements of intra-state federalism by harnessing and committing republican leaders to federal acts (Havel 1993, 46-49). As in December 1990, Havel also proposed that the president have the right to declare emergencies, call referenda, and dissolve the Assembly should it become deadlocked on matters other than financial ones (Saladin 1991, 213-14).

Difficult talks about the state treaty continued through the spring. Havel played a leading role, but Slovak insistence on the confederal approach undermined the legitimacy of central institutions and forced responses by the Czech National Council. After all, the state treaty between the republics would constrain the drafters of the federal constitution. Any attempt to accommodate this demand on the part of either the federal or the Czech government necessarily delegitimized the central authority.

In May 1991, the Czech National Council reacted to the pressure by presenting a draft state treaty that was a blend of confederal and federal principles. There would be one president and one constitutional court but both republics would recognize each other's sovereignty as well as that of the federation, and secession would be permitted by referendum (20, 13). This was a major concession.

But negotiations continued, and the uncertainty brought another, internal threat to the Czechs — the autonomist demands articulated by the Association for Moravia and Silesia. There was much discussion in these regions of their future status. The issue was whether to develop as a land within the Czech Republic (which each was) or to demand recognition as a republic within a tripartite federation (the third element being Bohemia), an option that would diminish Slovakia's relative importance. The Czech National Council could not come to grips with the issue, but unrest in the region produced several major demonstrations, and the Association withdrew from the Czech government coalition (16).

As a commission of the Slovak National Council proceeded to work on Slovakia's constitution, negotiations continued. There were talks in June about how to negotiate and ratify the state treaty and the constitutions, but these led nowhere. Then informal discussions took place between party leaders from the two republics, and the Presidiums of the National Councils met in Bratislava in early September. Here the Czech position hardened as the first deputy chairman

of the National Council warned that if the new division of powers was not soon settled the Czech legislature would choose to dissolve the federation (22, 8). The Slovak Presidium was more divided, as were the governing Christian Democrats, and agreement was minimal — to presume the continuing existence of the common state, to use only constitutional means to bring changes, to keep the other Presidium informed of developments, to set up working groups on the division of powers, and to have the new federal constitution ratified by the National Councils. Even this was rejected by Meciar and the MDS, as the leader made another sovereigntist thrust, declaring that “Slovakia has an inalienable right to adopt its own constitution” (22, 8). Along with 34 other politicians, Meciar formally advocated adoption of a “full” Slovak constitution: this would create a constitutional rupture as it would be a unilateral declaration of independence. By now, because the CDM was internally divided and PAV was eroding, the federalists were in a minority in the Slovak National Council; yet it twice postponed a vote on the Declaration of the Sovereignty of Slovakia, in part because the Czech National Council had already resolved that such a declaration would be an unconstitutional act, would represent secession, and would make the remaining republic the successor to the federal republic’s international rights and obligations. Since it would be a renegade unit, the seceding state would have to seek international recognition and renegotiate treaties (23, 13).

As matters stood, there were two constitutional ways to dissolve the federal state. One was through a constitutional amendment, passed through the normal process. The other was by referendum, according to the law finally adopted in July 1991 as negotiations were proving fruitless. This provided for the president to call a referendum either in the whole country or in one republic, but only on the demand of the appropriate legislature. The referendum had to be held within 90 days, but could not be called within five months of an election. Questions had to be approved by 50 percent of the eligible voters. If separation were approved in either republic, the federation would dissolve one year from that date, and a federal law would provide for the division of assets (21, 29). In the September crisis Havel called for the Federal Assembly to propose a referendum on whether the federation should continue. This was supported by a large petition campaign, but there were substantial obstacles. The Slovak nationalists opposed it, because a negative vote on secession would destroy their bargaining power. They could block the question or the law about assets in the Slovak chamber of the House of Nations, and the nationalist majority could also prevent a secession question emerging from the Slovak National Council. On the other hand, a straightforward positive vote on a question about whether the federation should continue would leave all issues about its constitutional structure in the hands of the same politicians who could not currently reach

agreement. Continued uncertainty was not attractive to Klaus and the CDP (21, 30).

So negotiations about the division of powers and the state treaty continued in late 1991. Havel tried to take an active role, presenting a draft state treaty and proposing that the Federal Assembly begin work on its constitution. Differences remained, though, about whether the treaty represented the consent of sovereign entities or only an intra-state agreement, and about whether it would bind the Federal Assembly. Then, on 5 November, the federal government issued its own “minimum requirements for the further existence of the common state.” Despite Czech Premier Petr Pithart’s conciliatory overtures to the Slovaks, the Presidiums of the National Councils failed once more to agree on the state treaty and the division of powers. Immediately thereafter, Meciar attempted to bring the Declaration of the Sovereignty of Slovakia to a vote, but the Slovak National Council refused to do so. At the same time, deputies in the Federal Assembly blocked all proposed wordings of a referendum question (24, 12). There was deadlock.

Two years to the day after the Velvet Revolution, Havel proposed another set of constitutional amendments. These would permit the President to call referenda and dissolve a deadlocked Federal Assembly, to restructure the federal Parliament, and to change the electoral system (to a transferable-vote, single-member-plurality system). This large and rather disparate package was rejected by the Assembly (27; Keesing’s, November 1991, 38584).

A final round of negotiations took place in early 1992. On 8 February, an *ad hoc* commission of the National Councils, meeting at Milovy, reached a draft text of the state treaty, one that expressed the will of the “people” in each republic “to live in a common state” (29, 38). This was a highly ambiguous document that recognized the sovereignty of both republics and also of the common state.<sup>18</sup> The principal law of the common state, for example, would be a constitution adopted by its legislature, but one based on this treaty, and subject to approval by the legislature of each republic; in turn, the republican constitutions would respect the principles of the treaty. Substantively, the common-state government would have few fields of executive and legislative jurisdiction, but it would possess a wide range of legislative competences: the three governments, somehow, would coordinate administration of these central laws. The draft was fairly complete, but no agreement could be reached about matters of state security, the precise status of the common-state government, or methods of constitutional amendment.

This draft was supported by Carnogursky and most of the CDM, but it was condemned by the SNP, the former Communists, and the MDS: Meciar called it “a betrayal of the contemporary national movement.” (FBIS, 14 February 1992, 14) On the Czech side, despite severe criticism from Klaus’s CDP, the

National Council was willing to have the two Presidiums meet to discuss the draft. But two days later, when the CDM split, the draft was rejected by the Presidium of the Slovak National Council (Barbieri 1992, 120). After this, the long negotiations ended, dissolving like the other outstanding issues into the tough election campaign of the spring of 1992.<sup>19</sup>

## (2) THE SECESSOR STATE DECLARES ITS INTENT

By the time of the final separation of Slovakia and the Czech Republic, the forces for independence were at least as strong in the latter as in the former, and in the crucial meetings after the 1992 elections when Klaus and Meciar together agreed on the separation, the Czech leader, arguably, pushed the Slovaks towards sovereignty. But the initial drive for independence came from the Slovak side, and the Czechs long attempted to accommodate Slovak nationalism, abandoning their efforts only when persuaded that the costs of non-separation were too high.

Slovakian forces pushed several times towards secession. There were, in effect, near-declarations of intent. But either the nationalists hesitated, or they could not quite command a majority of deputies. The most notable instance was in the autumn of 1991 when the National Council decided not to vote on the Declaration of Sovereignty. Were this vote lost, it would have been terribly costly to the sovereigntists as their bargaining position would be undercut, yet were it to pass, the constitutional status of all three governments would have been thrown fundamentally into question. Support for the Declaration, though, was a part of Meciar's 1992 campaign platform, along with the proposal to adopt a "full" Slovak constitution, with a president of Slovakia. After the elections, those promises were kept.

The elections of 5-6 June left Meciar in control of the Slovak National Council, put Klaus's party in a strong position though not a commanding one in the Czech National Council, and produced a Federal Assembly that would deadlock on economic and constitutional issues. Meciar took an aggressive stance immediately, by stating his intent to dismantle the federal broadcasting agency and the security agency. Then on 9 June the leaders and their key party officials met for talks. These proved difficult, to say the least. They met again on 11 and 17 of June.

Klaus claimed that Meciar wanted not a common state but an "economic and defense community," which the CDP would reject. On 9 June he said "it is clear that our Slovak partner doesn't want a common state. For Mr. Meciar the federation is over, and we are accepting this position more and more" (FOF, 11 June 1992, 421). On 11 June, Klaus and the CDP apparently proposed a looser federation, yet, he maintained, the other side insisted on the republics

being sovereign in international law, which Klaus considered to be an unacceptable foundation for the federation (FBIS, 12 June 1992, 18). Meciar claimed that the Czech side presented the extreme options of a "single, centralist state or disintegration," and that Klaus had rejected a confederal union of two sovereign entities as a "joke" (34, 26-7). On 17 June, Meciar and the MDS negotiators did propose just such a loose economic and defence community between two "internationally recognized states," but Meciar claimed that Klaus would not hear of it; nor would the CDP leader agree to delay a resolution of constitutional matters until Slovakia had held a referendum. Hence, Meciar said, the Czechs "say Slovakia has to make a unilateral step leading to the total disintegration" of the federation. "That is not what we want." (NYT, 17 June 1992, L-14) Still Klaus would not accept a confederal solution — the creation of a "nonstandard entity" — and still Meciar did not back down from his promises of sovereignty (FBIS, 10 June 1992, 14).

On 19 and 20 June, the two leaders reached a "political agreement" under which a coalition federal government was to be formed, and they also agreed on a program statement for that government. Klaus, whom Havel initially had asked to form a federal government, would not be part of it — he opted for the post of prime minister of the Czech Republic. At the centre would be a weak, caretaker government. There were no very prominent leaders included, and there were only ten rather than 16 portfolios. Four of the ministers were to oversee the phasing out of their operations at the federal level (36, 1).<sup>20</sup> The administration was to maintain other central operations, contribute to resolving constitutional problems, and, if authorized, "prepare conditions for a smooth functioning of two sovereign states with international status" (34, 27). As Klaus put it, "[t]he federal government understands its mandate as temporary" (NYT, 20 June 1992, L-3). The rest of the agreement was minimal; in fact, it stated most emphatically the parties' disagreement on the constitution of the federal republic, and contemplated the probability of separation by committing the two sides, should it occur, to good relations and to the integration of federal deputies into the republican legislatures. It also committed the two sides to a constitutional resolution of the situation. This was to be achieved by an agreement between the two National Councils. Most important, the leaders set a deadline for resolving the constitutional issue — 30 September.<sup>21</sup>

The political agreement laid important groundwork for separation, and it was widely interpreted as the beginning of the end of the federal republic, but this was not yet accomplished; nor were the leaders absolutely and publicly committed to separation. As Klaus summed up matters after the political agreement was reached, "[w]e are not pre-determining the result, our duty is to take part in the creation of a process which will make it possible to see this choice with clarity." (FBIS, 22 June 1992, 20) But the Slovak side continued to press. The

new government appeared to be interventionist as well as nationalist. For instance, the minister of state property proposed changes in the privatization program whereby the republic would retain a "golden share" in large enterprises. More ominously, Meciar appointed as the new minister of internal affairs the general who was commanding the eastern military district. This raised again the sensitive issue of autonomous defence that had emerged the previous summer when the Slovak government mooted the creation of a home militia, in response to developments in Yugoslavia. Havel promptly relieved the general of his military offices, but the new minister stated that he favoured transferring military units and weaponry to Slovakia (35). In fact, it seems that federal authorities already were removing Slovak troops from the Czech Republic and *vice versa* (34, 31).

The next thrust from the Slovak side was to block the re-election of Havel. The president by now had moved quite far towards accepting the principle of separation. In addressing the opening session of the Federal Assembly, he called for a quick resolution of the constitutional issue:

I share the view that the state of uncertainty cannot be prolonged forever and the sooner the decision is taken the better. Every day of delay increases the unfortunate consequences of uncertainty — moral, economic, international-legal, and political. The very agony of the common state, its gradual collapse, or an unruly break-up would turn against all citizens. (Keesing's, June 1992, 38945)

But Havel still favoured a country-wide referendum to settle the issue (FBIS, 22 June 1992, 18). He had also called on Klaus to form a federal government. This was done without consulting Meciar, which the Slovak leader found offensive. More important, Havel had intervened in the election to warn against irresponsible politicians, and so Meciar's MDS would not support his presidential candidacy.<sup>22</sup> In two rounds of voting he was defeated. In the last, on 3 July, he was defeated only in the Slovak chamber of the House of Nations. An argument can be made that the CDP caused the re-election to fail by forcing a quick second vote, so there was no time to negotiate a compromise (Barbieri 1992, 122-3; NYT, 5 July 1992, 7). But for public consumption, Klaus stressed "the fact that Vaclav Havel was elected by Czech deputies but not by the Slovaks," and stated that the Czech people would "regard this as yet another step casting doubt on the common state" (36, 3). In fact, the constitution called for a third round of voting. If this were inconclusive, Havel would continue in office until 5 October, at which time the federal government would exercise his powers (with the Federal Assembly's Presidium appointing and recalling the government).

Soon after this demonstration of conflict and paralysis at the centre, each National Council approved government programs that presumed the federation would be dissolved. Pushed by Klaus, the Czech program declared that the

government "must take all measures needed for the republic to be able to exist as an independent state" (38, 30).

Then the Slovak National Council took the next step towards secession on 17 July, when it finally passed the Declaration of Sovereignty. This affirmed the Slovak nation's right to self-determination and national autonomy, while pledging protection for the rights of citizens, national minorities and ethnic groups. It passed by 113 votes to 24, with ten abstaining and three absent. The Christian Democratic Movement and the Hungarian coalition opposed it (37, 25). This was an intensely emotional event. Roman Catholic church bells pealed throughout the country at 7pm. Crowds surged in Bratislava (enough that those voting against the motion asked for police protection). Meciar declared that the Slovaks had awaited this moment "for more than a thousand years." In fact, the constitutional significance of the action was unclear. The 1948 constitution had acknowledged that the unitary state was composed of two "nations," and under the existing 1969 constitution, both republics already were sovereign. Hence, argued Meciar and the MDS, the declaration was a symbolic affirmation of this fact rather than a binding, legal declaration of independence.<sup>23</sup>

But it had consequences. First, Havel resigned, within an hour. His oath of office bound him to defend the federation but his powers were not sufficient to allow him to do so. Moreover, he thought, it was now too late for a referendum on the country's future. The Slovaks were doing what he felt governments should not undertake — building "structures" before asking the citizens what they wanted (FBIS, 16 June 1992, 8). But he could not stop this; nor did he wish to be an obstacle to Slovak aspirations. At the same time, he indicated that should separation occur he might run for the presidency of the Czech Republic (37, 26). So the most visible symbol of the federation, and its staunchest and most popular defender, left the scene. Second, the declaration and the resignation sent shock waves through the Czech lands. It strengthened the conviction that separation would take place. This was reflected at the governmental level, as the Presidium of the Czech National Council called for immediate talks on "a civilized dismantling of Czechoslovakia" (37, 28).

These talks took place on 22-23 July, when Klaus and Meciar met in Bratislava. At this crucial meeting, it was insisted, they met only as leaders of their respective political parties: any accord reached would have to be approved by their National Councils and the Federal Assembly (38, 32). An accord was reached and signed.<sup>24</sup> The "basic thesis" now was "to attempt to achieve the legitimacy of the process of disintegration of the Federation." (FBIS, 23 July 1992, 9) The first principle agreed was to submit to the Federal Assembly by 30 September a draft constitutional amendment to dissolve the state and distribute its assets. Suddenly the deadline for settling the constitutional

Impasse had become a deadline for agreeing on how to wind up the federation. Beyond this, the republics were to prepare treaties covering four areas: citizen's rights, foreign policy, defence, and a customs union. As well, they agreed to abolish some bodies like the Academy of Sciences, to split others like the security services, and to transform others, like the broadcasting service, into joint-stock companies with shared ownership (38, 32; Keesing's, July 1992, 39015). The party leaders, who were then working on the assumption of "minimum common interests," could not reach an agreement on mechanisms to coordinate budgets and fiscal policy, which was seen as "an inevitable precondition for maintaining a common currency"; hence, they could not decide whether to maintain a common monetary policy and currency (FBIS, 23 July 1992, 9, 13).

Despite these agreements-in-principle, it still might have been possible for the Federal Assembly to avoid dissolving the country entirely, and to preserve powers roughly equivalent to those in the kind of confederation envisaged by Meciar (38, 33).<sup>25</sup> Indeed, there was further hesitation on the Slovak side. In August there emerged a "Working Draft of a Treaty on the Creation of a Czech-Slovak Union," prepared for Meciar's MDS. This proposed coordinating foreign and security policy through a joint Council of Ministers of Foreign Affairs. It also provided that citizens of each republic would also be citizens of the Czech-Slovak Union, and that both languages would be officially used throughout the union (39, 13). But the Czech leadership rejected these proposals. And the federal prime minister, Jan Strasky of the CDP, argued that cooperation would be better ensured by postseparation treaties than by moving to a confederation. He also stated that a postseparation customs union would be possible only if Slovakia maintained progress with economic reforms (39, 13). Meciar was outraged and cancelled further negotiations. But talks were held on 26 August in Brno.

Here the July agreements were re-affirmed. It was also decided that the federation would cease to exist on 1 January 1993, and a timetable was set for a "controlled transition to two separate states" (39, 14).<sup>26</sup> By 30 September, the Federal Assembly would pass a law on dissolution, asset-division and successor rights. In October the republics would adopt laws on interstate cooperation. It was further agreed to maintain a common currency, for some indefinite period, and a joint army command. Moreover, to avoid future misunderstandings, the CDP and MDS caucuses would coordinate their strategies in the federal parliament (39, 14).

This agreement set the stage for the final move by the Slovak side. On 1 September, the National Council adopted a constitution for Slovakia. It was passed by 114 votes to 16, with four abstentions. The opponents were Jan Carnogursky's CDM and the 14 Hungarian deputies who had walked out in

protest against the document's inadequate protection of minority rights (Keesing's, September 1992, 39105). This was a full constitution. It provided that federal laws were valid only insofar as they did not contradict the constitution of Slovakia (42, 42). Some clauses were to come into effect only in January 1993, in order to avoid a full-scale rupture with the existing federal constitution, but others, like those providing for a customs service and a central bank, were operative as soon as the constitution took effect (which was 1 October 1992). The formal signing took place on 3 September, in Bratislava Castle; then Meciar and the SNP leader appeared on a balcony before cheering crowds.

To the Czech side, though, this was the final declaration of intent. As one parliamentary leader put it, "by adopting a full constitution, Slovakia has quit the federation, with all the possible consequences" (39, 15).

### (3) THE PREDECESSOR STATE ACCEPTS THE PRINCIPLE OF SECESSION: NEGOTIATIONS FOLLOW

By the autumn of 1992, the Czech side had accepted that separation certainly would occur; indeed, Czech leaders were driving the process. But this conviction had taken some time to attain. The Czech-Slovak separation was not marked by the decisive event of a referendum, with an unmistakable message to reject the union. It took time to appreciate the depth of the Slovak nationalism that emerged once the revolution had made free expression possible, and for Czechs to be led to comprehend that those forces posed a greater threat to them than did their own independence, despite the costs of separation.

The source of much frustration was the constitution. It was clear in early 1990 that the federal government's powers would be devolved somewhat to the newly vigorous republican National Councils. But Slovakian political forces kept making strongly autonomist demands, and the government backed them up with threats that made suspect their good faith and long-term objectives. As early as July 1990, for example, the CDM in Slovakia pressed for a confederal solution so that Slovakia eventually could enter Europe "as a sovereign and equal entity" (9, 4). The subsequent settlement of the division of powers issue in August at Trencianske Teplice was strongly decentralist, and yet it was immediately condemned by the SNP. The CDM and its allies defended the deal, but also engaged in more sovereigntist rhetoric. Always there was a Slovak party ready to condemn as inadequate such framework arrangements as could be negotiated, and always, it seemed to the Czechs, this pulled the Slovak side to make new demands. As Havel put it:

More than once I have observed work on the constitution made complicated by the fact that Slovak positions held yesterday are no longer held today, and no one

can say whether positions held today will still be held tomorrow. And so proposals and demands that at first appeared marginal or absurd are suddenly taken seriously, and defended even by those who, until recently, rejected them — who now adopt them as their own. Unfortunately, they do so not out of conviction but for fear of appearing too half-hearted in their championing of Slovakia's interests. (1993, 39)

This pattern continued for almost two years. The next Slovak thrust was the official language law of October 1990. Its constitutionality was not evident, and it was a considerable departure from past practice, but the final, compromise version was condemned as inadequate by the SNP and its allies, both in strong rhetoric and in the streets. The "state treaty" came onto the agenda next. Then there was the demand that the National Councils ratify the federal constitution. When some of these issues were apparently settled in September 1991, Meciar and his party were in place to throw the agreements into question, demanding that Slovakia adopt the Declaration of Sovereignty and a "full" constitution. Even Carnogursky, engaged in negotiations to reform the federation, stated in a widely noted interview in July 1991 that Slovakia would be independent by the year 2000 (22, 7).

The constitutional talks provided scope for a rich ambiguity that frustrated the Czechs. The prime instance was the state treaty, introduced as a concept by the Slovaks in the midst of the nationalist crisis of early 1991. At the same time as it undercut the status of the existing federal constitution, this notion was plastic enough to be open to quite different and conflicting interpretations. To the Czech side it represented an intra-state agreement that would guide the drafting of the republican and federal constitutions. To the Slovaks it could embody international sovereignty and serve as the basis for post-independence cooperation. Politicians like Meciar could oscillate between interpreting the treaty as a way to wind down the federal government to a minimal level, or as a means to achieve sovereignty without taking risks, because the basic degree of cooperation within the future common state would have been laid out in advance.

Among the Czech citizenry as a whole, symbolic events doubtless contributed to support for politicians who would take a firm stance towards the Slovaks. Some of these events were official acts, but others were generated by relatively small groups of extremists. On the official side, disagreement over the federation's name was an early warning of Slovak nationalist sentiments. The "hyphen controversy" helped spark a famous Czech author and dissident, Ludvik Vaculik, to write a remarkable essay setting out the advantages to Czechs of a separation (9, 1-3). The next shock was the language law. While this provided that "citizens are also entitled to use Czech in official dealings," it did make Slovak the sole official language in the republic, and ended bilingual official signs (12, 15). Late the next year, the toying by the Slovak National

Council with the Declaration of Sovereignty was also quite impressive. But more irritating were unofficial actions. The celebrations by extremists of Hlinka, Tiso, and the fascist Slovak state were deeply offensive to many Czechs (as they were to many Slovaks as well). So was the treatment afforded the popular Havel in Bratislava at the height of the March 1991 nationalist fervour: during a ceremony to celebrate the anniversary of Czechoslovakia's founding, he was jostled, spat upon, and shouted down with jeers of "Go back to Prague" and "Judas" (FOF, 28 March 1991, 225). Much later, when he failed to be re-elected president, Czech crowds dispensed the same treatment to Slovak federal deputies.

As the constitutional morass continued, and Czechs came to focus more closely on the prospects of their own republic rather than the federation, the costs of uncertainty became clearer. One was the danger of a drift towards internal fragmentation, as the Moravians and Silesians found their own autonomist leaders. The prospect of a tripartite federation was much discussed, and was disingenuously supported for a time by the Slovakian Christian Democratic Movement (9, 4; 16, 9; 20, 14). Were such a federation to emerge, and Slovakia then to secede, the Czechs would be left in a much more difficult position. The economy was also a factor, one ceaselessly stressed by Klaus and the CDP as negotiations dragged on. First, allied with the left in both republics, the Slovak nationalists persistently delayed and modified the economic reforms that the CDP championed, that appeared by the end of 1991 to have been remarkably effective, and that Czechs increasingly came to support in 1992. Second was the matter of the federal budget, to which the Czech contribution reportedly was ten times that of Slovakia: the eastern republic received about \$300 million in subsidies in the first five months of 1991 (23, 13). In 1992, Czechs began to speak of the "money pipeline" flowing east. Finally, the uncertainty was impeding foreign investment. The country had fallen from the most attractive in Central Europe in 1991 to the level of Romania by mid-1992 (40, 1). For a people anxious to join the Western market economies this was serious cause for concern.

Under these influences, the Czechs moved to accept and prepare for separation. This occurred on several fronts, under the leadership of both federal and republican politicians. In 1990 and early 1991, the republican leaders were generally willing to let Havel and the federal government take the initiative on constitutional matters. So, most notably, they accepted the November 1990 compromise on power sharing, and also the self-determination clause of the Bill of Fundamental Rights and Liberties. But Havel himself was frank enough to acknowledge early the possibility of a breakup. On 10 December 1990, in a speech to the Federal Assembly, he warned that the federal state was "not threatened this time from the outside, as so often in the past, but from inside"

(14, 8). This appeal got the power-sharing amendment through, but it was accompanied by four elements that remained consistent in his later interventions, and that were supported at the time by all major political formations in the Czech Republic.

First, he warned against unconstitutional strategies that would produce "total legal chaos." He accused some Slovak politicians of brinkmanship and rabble-rousing, citing the polls to show that the vast majority of Czechs and Slovaks did not want independence.<sup>27</sup> Such attacks infuriated Meciar, who portrayed them as paternalistic and inflammatory. Third, he proposed that the presidency be granted extended powers, a course of action that was never followed because of Slovak apprehensions and federal legislators' caution. Finally, he advocated that a Constitutional Court be established, and that legislation be passed providing for a referendum to settle the constitutional issue. He also made it clear, from the start, that force would never be used to preserve the federation.<sup>28</sup>

On the one hand, the prospect of a referendum appealed to Czechs because they remained confident that separation would be rejected; on the other hand, the very raising of the matter confirmed that the situation was grave, affirmed it was possible that the Slovaks would vote to secede, and forced them to contemplate a future — and so to consider themselves in the present — as Czechs rather than as Czechoslovaks. Havel pressed for enabling legislation and for a referendum at every crisis. So he helped bring about acceptance of the principle of secession, and also helped solidarize the Czechs. On 10 March 1991, for example, in rejecting the Slovak proposal for a state treaty, he said that there was "simply no Czech partner for such a treaty." Yet on the same day he called for a referendum, and declared that "[t]he breakup of the state is an alternative we must think about seriously" (17, 6-7). Thinking about breakup inevitably forced the Czechs to think of their own National Council as a "partner" to the secessionist Slovaks.

Certainly the Czech National Council took the prospect seriously. The following day its Presidium established a commission under the prime minister, Petr Pithart, to examine "alternative solutions for the arrangement of the state" (17, 8). (In response, Meciar urged that Slovakia do the same thing.) At a meeting of the Czech National Council in May 1991, scenarios for separation were discussed (20, 14). The debate was held *in camera*. But the scenarios and projections had been prepared under official sanction, and they were shortly followed by a report on the economic implications of separation. The Slovak government prepared a similar report, and the federal government asked the Slovak Academy of Sciences to prepare yet another (29, 33). All three investigated the effects of a breakup into two sovereign countries.

This assumption provides one clue as to why the separation was peaceful (as well as showing how far the process had proceeded). Czechoslovakia was a

two-state federation, a bi-national union. So the secessionist state had a natural interlocutor in its Czech partner. As the republics assumed power and moved towards separation, the central government could simply wither away. This is not true of most other federations, where the central government, not without difficulty in maintaining the cohesion of other states or provinces, must be the interlocutor of the secessionist unit. Moreover, as the central government and legislature contain representatives from the potentially seceding state, they cannot readily acknowledge the possibility of fragmentation before it occurs, even to the point of commissioning reports and contemplating scenarios. But in the Czech-Slovak case, it was possible for the centre to become redundant as legitimacy and negotiating power shifted to the republics. By mid-1991, each republican government had prepared itself with analyses of trade, investment, and currency questions, along with assessments of how issues like the division of federal assets might be resolved. This marked an important step in the Czechs' acceptance of separation.

Through late 1991 the Czech Republic's position hardened. Here is where Klaus's new party began to mirror Meciar's MDS by advocating a much firmer line: the federation had to be functional, or separation could result. This position commanded increasing support as Czech opinion shifted. One important event was the joint meeting of the Presidiums in Bratislava on 5-6 September to discuss power sharing. The Czech members were clearly irritated by Slovak confusion and new demands, such as that for a Slovak central bank. One Czech deputy chairman, Jan Kalvoda, warned that if an agreement were not quickly reached then the Czech side would opt for dissolving the federation, and the deputy prime minister gave the federation only a 50 percent chance of survival (22, 8-9). Later that month, as the Slovaks contemplated voting on the Declaration of Sovereignty, the Czech National Council resolved that its passage would be unconstitutional and that the other republic would do whatever necessary to "secure its own independent existence" (23, 13). Prime Minister Pithart declared in October that the Slovaks appeared to want a "minimum state" run by joint, *ad hoc* committees: this was simply "unprecedented and impractical" (24, 9). In clear terms, Pithart also warned the Slovaks about the costs of secession.

These threats produced no evident movement on the Slovak side. There was still fundamental disagreement about the nature of the state treaty, and continuing disputes about the division of powers. Pithart made a very conciliatory address to the Slovak nation in early November, but the republican Presidiums were unable to reach agreement at a 11-12 November meeting that the Czech prime minister labelled, starkly, a "failure" (24, 12). There was some hope yet that a country-wide referendum could force an agreement. Indeed, after a mass campaign in the autumn, the Federal Assembly was presented with a petition

signed by over a million Czechs and Slovaks calling for a referendum. But the centre's impotence was clearly evident when all proposed questions were defeated in the Assembly on 13 November. Havel's bold intervention on the anniversary of the revolution also came to nought.<sup>29</sup>

The Czech side continued to negotiate. But it also moved to secure its "independent existence." In early February, for example, the government approved construction of an oil pipeline from Germany to Bohemia, so reducing potential dependence on imports from the CIS through Slovakia (29, 35). Similarly, when Slovakia established a Ministry of International Affairs, the Czech Republic did the same thing (31, 31). The February 1992 breakdown of negotiations over the state treaty, therefore, found a republican government increasingly familiar with contemplating its sovereignty.

So, based on the 1992 election results, were the Czech people — almost. Although his campaign emphasized the economic dimension of policy, Klaus had made it quite clear before the election that the Czech Republic needed to acquire the coherence of the Slovaks, rather than perpetuating a pattern in which "a Slovak representation is emancipating itself and a Czech representation considers itself a not so clearly defined part of the Czechoslovak federation" (36, 5). During the campaign he stated that "[i]f there won't be a reasonable united state, a reasonable federation, it will be necessary to decide in a quick and intelligent manner on a different way." But, he added, "our first priority is a reasonable common state" (NYT, 7 June 1992, L-3). It was clear to all that Klaus would be tough in constitutional negotiations, but he had been given no clear mandate to drive towards separation.

Klaus's post-election position was not so strong "domestically" as was Meciar's. With 30 percent of the republican vote, the CDP, in alliance with the small Christian Democratic Party, took 76 of the 200 seats. In the Federal Assembly, the CDP position was stronger — 48 of 150 seats in the House of the People (that is, 48 of the 99 Czech deputies), and 37 of 75 seats in the Czech chamber of the House of Nations. The CDP would be capable of blocking any constitutional amendments. But so could Meciar's MDS. Hence the intensive post-election talks. These revealed fundamental differences in orientation towards constitutional arrangements and economic reform. More important, Klaus evidently was quite uncompromising in his demand for a "functional federation" where the central government had the power to press ahead with the reforms he envisaged. It seems that Meciar was surprised by the intransigence of the Czech side. As he told a *Le Monde* interviewer,

Voyez-vous, nous nous trouvons dans la situation suivante: la partie tchèque nous propose de constituer immédiatement deux Etats indépendants, sans même une monnaie commune. Nous, nous proposons une confédération, avec un marché commun, une défense commune et également en commun la protection des droits

civiques. Mais les Tchèques ont refusé. Ils veulent un accord sur la partition avant le 30 septembre, alors que les Slovaques, à cette date, ne veulent qu'un accord sur l'avenir. Les Slovaques veulent empêcher la désintégration immédiate de l'Etat. Nous proposons la transformation de la fédération en confédération; les Tchèques proposent soit une fédération, soit deux Etats....

M. Klaus ne m'a pas surpris. Ce qui m'a surpris, c'était l'agressivité de son entourage qui, dès la première rencontre à Brno, a décrété la désintégration de l'Etat au bout de quarante minutes de discussions. Ils ne se rendent pas compte de ce qu'ils font! Nous ne voulons pas l'indépendance, on nous y pousse. (*Le Monde*, 7 July 1992, 4)

Or, as one commentator put it, "It was as if Meciar pounded at Klaus's door without really wanting to knock it down; to Meciar's surprise, Klaus opened the door, and Meciar fell in." (Draper 1993b, 26)

After the critical talks of 19-20 June, the CDP took its position on the stark alternatives that it had helped to pose. As the "political agreement" flatly expressed the choice, "the Movement for a Democratic Slovakia considers a confederation of the two republics as two subjects of international law to be a common state. The Civic Democratic Party does not consider a confederation of two republics as two subjects of international law to be a common state, but a union of two independent states." (FBIS, 22 June 1992, 12) This difference arose fundamentally from the fact that sovereignty is indivisible: the CDP "does not consider the confederation of two sovereign states as one common state ... and prefers the constitutional separation of the current state to this confederation." (FTL, 22 June 1992, 1).

It was only after Klaus and Meciar made their political agreement to form a coalition government at the federal level and to resolve the constitutional impasse by 30 September that Klaus formed a Czech government.<sup>30</sup> Evidently, the constitutional process henceforth was to be based firmly on the republican National Councils, and it was to this arena that the leading Czech politicians gravitated: there was "virtually no leading representative" of any major party in the federal government (36, 1). It remained only for Havel to resign for the Czech people to focus fully on their republic, an attitude encouraged by Klaus, who welcomed the prospect of Havel "re-emerging as an important personality at the level of the Czech Republic" (36, 5).

The Czech government, of course, was a coalition. The core consisted of the CDP (nine members) and the Christian Democratic Party (two members). Also represented, with three members, was the Civic Democratic Alliance, a right-of-centre formation that had taken 5.9 percent of the vote and 14 seats, and also the Christian Democratic Union-People's Party alliance that took 6 percent of the vote and 15 seats, and received three government positions (36, 4-5). This gave the government a slim majority in the National Council — 105 of 200 seats. Apart from the extreme-right (and centralist) Republican Party, the major



opposition forces were the Left Bloc, the Social Democrats, and the Liberal Social Union (a leftist coalition), with a total of 67 seats. All the left parties favoured further efforts to save the federation.

But Klaus pressed ahead, presenting a program that envisaged separation. As the new prime minister of the Czech Republic, his declared aim was to build a strong Czech state and transform the republic into a "normal, democratic European country" (36, 5). He was certainly out ahead of Czech opinion, but he soon was aided by the Slovak Declaration of Sovereignty and Havel's resignation. The Presidium of the National Council took the Declaration as expressing Slovakia's desire for independence, and called for immediate talks on "a civilized dismantling of Czechoslovakia" (37, 28).

During those talks through the summer and autumn of 1992, the Czech position was manifestly stronger than it had been previously. This was simply because the leadership was determined on its course, and was prepared to accept the full consequences of separation. On 21 July, for example, the Czech trade and industry minister announced that if a separation occurred, the Czech Republic would if necessary assume responsibility for the federation's entire \$9.3 billion foreign debt (FOF, 23 July 1992, 553). This removed any possibility that the Czechs would have to compromise on some issue to induce the Slovaks to agree to pay their share. It eliminated uncertainty without requiring Slovak cooperation.

In early August 1992, Meciar appeared to back off from the prospect of full independence, after the IMF warned a delegation about its economic consequences. But the Czech side was insistent. As one of Klaus's aides put it, "Slovakia can have its independence, but without a Czech insurance policy" (39, 13). Later in the month, the federal prime minister, Jan Strasky of the CDP, argued that complete independence would be preferable to reviving the current dysfunctional federation, and the Czech government totally rejected the MDS's Working Draft of a Treaty on the Creation of the Czech-Slovak Union as an attempt to avoid separation by salvaging a loose confederal system (39, 13). The 26 August meeting at Brno confirmed this rejection, by establishing a timetable for the separation. There would be no confederal arrangement. As Klaus stated to a Toronto audience in September, "what we definitely, definitely want to avoid is to create some unknown, never-tried artificial combination of two countries in some crazy forms" (LFP, 3 September 1992, A-4).

Following the passage of the Slovak constitution, it was Klaus who was in a position to renege on agreements. On 8 September he announced that there would be no joint military command after all: the armed forces would be split by 1 January 1993 (39, 14). In the autumn's negotiations over postseparation arrangements, the Czechs continued to hold a strong position, constrained only by the need to placate foreign actors, to ensure the separation was peaceful, and

to finesse the Federal Assembly. When the MDS and leftist deputies in the Assembly tried once more on 1 October to open an avenue towards a confederal Czech-Slovak union, Klaus squelched the attempt. A confederation of any form was "not in the interest of the Czech Republic" (40, 3).<sup>31</sup> And as Slovak foot-dragging produced calls in the Czech lands for unilateral secession, Havel backed the prime minister by condemning delay: the ex-president declared "I fear this will lead to prolonged uncertainty ... the Czech Parliament should declare its intention to create an independent Czech state and adopt as soon as possible its own constitution" (FTL, 5 October 1992, 3).

As Czech acceptance of separation rose, it was their leaders who came to block proposals for a referendum. In 1991, the Slovak nationalists had done so in order that their negotiating position not be undercut. After the 1992 elections, Meciar and Klaus had agreed to hold referenda, but there was no substance to this; indeed their federal deputies blocked a referendum proposal in the Federal Assembly on 16 July (38, 33). Subsequently, demands from any quarter for a referendum were rejected by the Czech government as futile attempts to buy time or to delay economic reform. In the absence of a constitutional amendment to dissolve the federal republic, it remained the case that a referendum was the only constitutional way to wind up the federation. But even Havel declared by the end of September 1992 that "at this stage, a referendum on the future of Czechoslovakia no longer makes any sense" (41, 35).

This was probably true. Czechs had come to accept separation. In July 1992, the Institute for Public Opinion Research reported that 3 percent of Czechs favoured confederation and 16 percent wanted two independent states; on the Slovak side the figures were 30 percent and 16 percent. By September, the Institute found 46 percent of Czechs favouring a split and 45 percent opposed (compared to 41 percent and 46 percent in Slovakia). While the two polls did not ask identical questions, public opinion obviously had shifted a lot in the Czech lands. Most important, over 80 percent of both Czechs and Slovaks agreed that the separation was inevitable (41, 37). By October 1992, Czech opinion had hardened further: 37 percent of Slovak respondents thought the separation was necessary, compared to 56 percent in Bohemia and 43 percent in Moravia (Draper 1993b, 25). Not only had the leadership of the Czech Republic accepted the principle of separation, but their actions — and those of the Slovaks — had driven public opinion to acquiesce in separation, if not to embrace it enthusiastically.

(4) THE GOVERNMENT IS BROADENED AND STRENGTHENED  
ON EACH SIDE: THERE IS A PREMIUM ON SOLIDARITY

In most cases of peaceful secession, broad and representative coalition governments are formed on both sides in order to conduct negotiations. But the Czech-Slovak separation was a gradual process driven first by the leaders of parties victorious in the 1992 elections, and the republican governments were not broadened to include the representatives of other factions. On the contrary, those governments were tightly centred around the MDS and the CDP. More fully representative governments, like the populace, would have been divided on the issue of separation. It was only as negotiations proceeded and opinion hardened that participation broadened somewhat. Despite this difference from other cases of peaceful secession, it was still true that as the republics moved towards separation, the pressure for solidarity mounted. Politicians opposed to the breakup or its terms discovered that it was strategically difficult to resist, because their very opposition would weaken the bargaining position of their "own," national side. As the separation proceeded, and support for it rose, partisan leaders had to assume the national mantle.

In Slovakia, Meciar formed an unusually tight government on 24 June 1992, after the political agreement was made with Klaus. The Cabinet had only 14 members, reduced from 23. It included 12 MDS deputies, one member of the SNP, and one independent (the general commanding the eastern military district). All were of Slovak nationality. Moreover, Meciar realigned the senior bureaucracy by recalling 53 deputy ministers who had served the previous government (35, 36). Even more unusual was the composition of the National Council Presidium, which had formal responsibility for choosing the government and setting the Council's agenda (not to mention, later, negotiating with the Czechs). It had 15 members — seven from the MDS, three from the party of the Democratic Left (former Communists), two from the SNP, two from the Christian Democratic Movement, and one from the coalition of Hungarian parties (35, 32). This meant that the MDS and the SNP had a 60 percent Presidium majority despite having taken just 45 percent of the vote. Moreover, the chairman was an MDS member, and the three deputy chairmen were from the MDS, SNP, and Democratic Left, much to the dismay of the CDM and the Hungarians, who also found their deputies assigned to less important committees. The former prime minister, Jan Carnogursky, was voted off the Foreign Affairs Committee.

In the Czech Republic, Klaus acted similarly. He formed a tight coalition that commanded only a narrow majority in the National Council. The Cabinet was reduced from 19 to 17. The CDP held nine posts, including six of the nine economic portfolios. There was only one deputy prime minister named, Jan

Kalvoda of the Civic Democratic Alliance, who had taken a relatively hard line in previous constitutional talks. As for the National Council Presidium, the ruling coalition broke precedent by electing only its own members to the five major posts of chairman and deputy chairman. Klaus also tried to exclude altogether the Communists and the extreme-right republicans from the other 17 positions on the Presidium (36, 5-6).

As negotiations proceeded in the summer of 1992, it became apparent that opposition parties would have tactical and strategic difficulties. On the referendum issue, for example, the Czech Social Democrats and the Slovak CDM stood with the Communists in favour of a popular consultation. The public probably still favoured holding one. Yet were these parties to hold out for a referendum, and to reject federal laws that would amend the constitution to dissolve the federation, Meciar and Klaus could well have proceeded unconstitutionally. This would have increased tension and disruption, to the detriment of all citizens. Hence the more responsible opposition parties were forced to moderate their stance (39, 13). Later, it was the threat of non-constitutional separation by republican majorities that produced the final positive vote to dissolve the federation.

Beyond this tactical impotence was the solidaristic pressure not to undermine the emerging "national" interest. Meciar often made appeals of this kind. On introducing the Slovak constitution to the National Council, for instance, he said that "[i]t is humiliating if the Slovak National Council deputies, for whom the interests of the Slovak Republic should be foremost, throw dirt on their own republic and their own constitutional situation." (FBIS, 1 September 1992, 10) The same pressure was evident on the Czech side, in October, when the Federal Assembly briefly supported a proposal to draft a constitutional bill that would be essentially confederal, with a common president and legislature. Moved by the Czech Social Democrats, this resolution, surprisingly, was supported by Meciar's MDS deputies, and it passed (after many deputies had left the legislature). Klaus rejected it as totally unacceptable in principle and as a Slovak delaying tactic. The Czech opposition parties then quickly backed off when "the union proposal was seen by many Czechs as merely an effort to harm Klaus's bargaining position in the face of growing Slovak demands, thus damaging Czech interests" (40, 3). Again in November, when the Federal Assembly was debating a bill to permit the federation to be wound up, the Czech opposition deputies were squeezed by Klaus's determination on the one hand and Havel's formal announcement that he would seek the Czech presidency on the other: the Social Democrats and the Liberal Social Union supported the bill, and it passed in the Czech chamber of the House of Nations (44, 4).

As an instance of peaceful secession, the Czech-Slovak case is unusual in that public opinion was against the separation for some time, and continued to

be divided in each republic even as negotiations were well underway. Hence there were incentives for political forces within each state to oppose the leading, pro-separation parties. This is also the only case to have occurred in a full democracy with a universal franchise, and where elites were constrained by public opinion both directly and indirectly through the widely publicized results of modern opinion polling. Nevertheless, democratic mechanisms had produced republican governments with mandates to settle the constitutional issue. Those mandates were slim, especially in the Czech Republic, and it could certainly be argued that the leaders had not exhausted all means to reach agreement, but there was never any fundamental contestation of either government's legitimacy.<sup>32</sup> The June elections, in effect, were like very slim majorities in a referendum, and there is no democratic principle more profound than that the majority rules. In this case, narrow victories produced coherent, determined governments that could lever more widespread public support through the process of negotiation itself.

Once negotiations were underway, safeguarding each republic's interests — or claiming to do so — was the first priority for leaders of the respective governments and, increasingly, for other members of the separating communities. Opposition parties could disagree about where those interests lay. The Czech left, for example, feared more rapid economic reform within a republic freed from the constraints of the Slovaks, and the CDM in Slovakia was apprehensive about the economic impact of separation. But with the breakup imminent, there was strong pressure to ensure that it occurred smoothly; hence it could not be resisted at all costs. And overt disagreement with negotiating positions could not be long countenanced. These positions were those of one's republic, and to oppose them was to bolster the position of the other, to undermine one's "own" government, and ultimately — since both leaderships were committed to separation — to risk a chaotic split.<sup>33</sup>

#### (5) THE NEGOTIATIONS INVOLVE FEW PARTICIPANTS

This was certainly true in the Czech-Slovak case. The crucial talks were those immediately after the 1992 elections, on 9, 11, 17, and 19-20 of June. These were between the leaderships of the CDP and the MDS and most critically between Klaus and Meciar themselves.<sup>34</sup> At the last of these preliminary negotiations, there were a total of eight MDS leaders and nine from the CDP. Of course these direct negotiations were the tip of a consultative iceberg involving larger numbers of party notables and the leaders of potential coalition partners, but it was these rapid and concentrated meetings that produced agreement on a draft program for the federal government and also the political agreement that set the timetable for resolving the constitutional issue. After all

three governments had been formed on this basis, after legislative programs assuming separation had been presented, and after the Declaration of Sovereignty had been passed and Havel resigned, the next critical meeting took place on 22-23 July. Again, this was a Klaus-Meciar summit. Only four other CDP leaders and three from the MDS were involved. This meeting produced the procedural framework for the separation, and the first agreements-in-principle on post-independence relations. The leaders also agreed to set up joint commissions to work out details of the separation.

After this, negotiations broadened out somewhat. They involved more participants on the political side, and also officials, as detailed infilling of basic agreements was required. Always, though, the critical decisions guiding the process were taken by the principal coalition leaders on the two sides, and by the prime ministers. The crucial meetings were as follows:

- 26 August (Brno): Klaus-Meciar
- 6-7 October (Jihlava): CDP-MDS leaderships
- 25-26 October (Javorina): Republican governments, with some federal officials
- 9 November (Zidlochovice): Czech and Slovak governments
- 23 November (Bratislava): Czech and Slovak governments.

#### (6) THE SETTLEMENT IS MADE QUICKLY

After the June 1992 elections, events in the Czech and Slovak Federal Republic moved fast. Especially on the Czech side, politicians were most reluctant to "drag out this insecurity," as Klaus put it: "[e]very day this country is losing the chance for economic revival, the chance for stability, and that is something which no responsible politician can or should have the right to accept." (FBIS, 12 June 1992, 19) Within two weeks, the crucial decision to dissolve the federation was all but taken, and the 30 September deadline for resolving constitutional matters was established. Setting this deadline was an important decision: it forced the pace of events. Within another month, despite Meciar's hesitation, the framework for the process was decided, and the main principles governing postseparation relations were agreed in writing. The timetable leading down to 1 January 1993 was set. Then negotiating, drafting and signing the agreements between the two emerging countries took less than four months. In this period too, the federal state managed to wrap up its affairs and to dissolve itself — constitutionally — and each of the new states was endowed with a constitution. It was a period of frenetic political activity, and many loose ends were left to be settled later, but once the fundamental decisions were taken, no time was lost.

(7) THE SETTLEMENT INVOLVES A RELATIVELY  
SHORT LIST OF ITEMS

By any standard the Czech and Slovak Federal Republic was a highly integrated unit. As a sovereign state, the whole country was bound internationally by 2,000 bilateral and 800 multilateral agreements (29, 37). The economy had been planned and run in a unitary fashion under the Communists, and it was integrated in turn into COMECON. More than one-third of Slovakia's industrial output went to the other republic, as did one-tenth of the output from the Czech lands: some sectors in each republic were much more dependent than this on the other for inputs and market outlets (29, 34). The legal system and the framework of rights were uniform, for the most part. Infrastructure had been planned on a national basis. The common government employed large numbers of citizens, including 170,000 in the armed forces, and it owned very substantial assets both abroad and at home (despite the privatization). Over 300,000 Slovaks lived in the Czech Republic and 40,000 Czechs lived in Slovakia. Beyond this were substantial networks of social relations and more-or-less formal organizations of all kinds. And yet, the separation of the republics was accomplished through a very small number of formal agreements. The precise figure varies according to definition and source, but an official Canadian summary lists a total of 31 (Canada 1993b, Annex II).

The priorities and framework for the process were set by Klaus and Meciar in their political agreements of 20 June and 23 July. They first pledged continuity, and set out the deadline of 30 September to settle their constitutional differences. In July they agreed that the federation should be dissolved constitutionally, and also on the principles of some treaties that would structure future relations:

- in each republic, to protect equally the rights of the other's citizens, and to permit the free movement of people;
- to coordinate foreign policies and embassies, to have joint representation in the European Community, and to solve jointly the problem of succession to international treaties;
- to form a customs union, with free movement of goods, services, capital, and labour;
- to abolish some federal bodies and transform others into joint-stock companies with joint ownership; and
- to continue a joint defence system, for some time.

Obviously, the military was a priority, but full settlement of this most delicate issue was not possible yet. Neither was there agreement on the currency or on how or how much to coordinate monetary and fiscal policy. Division of the

federation's assets was not agreed, though it was decided that the constitutional law that would dissolve the federation would provide for a distribution of assets and liabilities (38, 32).

In August, at Brno, a timetable and more deadlines were set. The federal republic would end on 1 January 1993, the Federal Assembly should adopt its dissolution law by 30 September, and the National Councils should adopt laws on postseparation cooperation by 31 October. Meanwhile, federal and republican commissions were set to work on the modalities of separation.

In the autumn of 1992, it seemed that the basic agreements might not hold. The Czechs took a harder line, with Klaus insisting that the military be divided by the end of 1992. As well, the provisional accord on the division of assets (and liabilities) followed two simple principles: fixed property would be owned by the republic in which it was located; moveables would be divided on a *per capita* basis (that is, 2:1 in favour of the Czech Republic). Klaus suggested that these principles should be applied to military assets, of which 80 percent were located in the Czech Republic. On the Slovak side, there was some indication of hesitation, as was shown by the MDS support for the Federal Assembly's 1 October resolution in favour of a confederal structure (40, 2-4). This move was an effort to force Czech concessions on the budget and asset-division by threatening to block a constitutional dissolution of the federation. Hence Klaus's quick rejection: the Czech Republic would accept no constitutional amendment that would link the two states; instead, all relations would be on an interstate basis (40, 4). At this point the Czechs were forcing the issue, and Klaus made it clear that the republic was prepared to declare its independence, in reaction to Slovakia's "full" constitution, if a dissolution bill continued to be blocked by opposition parties in the Federal Assembly. Action at the republic level required only a simple majority rather than the three-fifths needed in the Assembly, and the Czech government's majority was solid; moreover, Czech opposition deputies could be portrayed as disloyal and as obstructionists who were increasing the uncertainty and costs of separation (40, 5).

From this imbroglio emerged the Jihlava meeting between the party leaderships of the CDP and the MDS. Here it was confirmed, in writing, that the federation would indeed end on 1 January. The parties agreed that the federal government remained committed to its program of dissolution. On this basis, the leaders would attempt to reach agreements "of such a nature that they will bring maximum benefit to the citizens of both republics." (FBIS, 7 October 1992, 9) A draft document on the customs union was discussed, as were the issues of state property, the army, and citizenship, but no concrete agreements were reached. The federation was to dissolve in less than two months.

The accords did start to flow when the Czech and Slovak governments met in Javorina on 25-26 October. The most important concerned a draft law to

dissolve the federation. As of midnight on 31 December the federation would cease to exist, along with all federal agencies and the armed forces. Both the Czech and the Slovak Republics would be successor states to the federation. The republics could begin to adopt constitutional laws and international treaties before the federation ceased to exist. This draft law was approved by the federal government and submitted to the Assembly on 27 October (43, 7-8).

Apart from this, the republican governments approved 16 agreements, which were signed by the prime ministers on 29 October, after a meeting in London with EC leaders that was also attended by Polish and Hungarian delegations. The most important agreement established a customs union between the two countries.<sup>35</sup> It appears that this was the minimum level of economic integration acceptable to the EC, of which the federal republic was an associate member. Leaders of the republics, and especially the Czechs, were anxious to maintain their associate memberships as sovereign states, and to accede to full membership soon, but the EC could hardly be interested in this evolution were the level of Czech-Slovak economic integration less than that prevailing within the Community (39, 13; 43, 8).

At the London meeting, Klaus and Meciar presented a memorandum asking that the EC extend associate membership to each republic, and that each state be a successor to the Provisional Agreement of 1991, and they pledged that the republics would assume all of Czechoslovakia's international rights and obligations (primarily import and export quotas, which had to be divided). These functions would be exercised with respect to the customs union by a joint Customs Union Council supported by a permanent Secretariat, with parity representation. The Customs Union Council would represent the customs union abroad. There would also be joint Arbitration Commissions with binding powers to settle some disputes. The customs union itself would allow for a single customs zone, and for goods and services to move duty-free between the republics. Tariff revenues would be retained by the state that collected them. The agreement envisaged common tariffs, trade and customs policies, and documents, as well as common legislation and regulations to effect agreed policy. Between the two countries, the treaty forbade import and export controls and quotas, outlawed dumping and export subsidies, and provided for national treatment in state procurement. While setting out a framework for joint action, the customs-union treaty had obvious defects. The structures and procedures of the common bodies were only vaguely defined. There were large exceptions allowed in the bilateral trade regime. Clearly, much was to work through trust and cooperation based on mutual interest, yet the underlying sovereignty of the parties could not be avoided: treaties with third parties negotiated by the Customs Union Council would be subject to governmental approval; in cases

of disagreement about subsidies and procurement, retaliation was allowed; and the treaty could be abrogated on 12 months' notice.

With less external pressure, the monetary-system agreement was not so well elaborated (FBIS, 13 November 1992, 5-7). The draft treaty provided that the common currency would be maintained for an indefinite period of time. Each republic would pass legislation to create a central bank. They would establish a joint monetary committee, with equal representation. When separate currencies were created, there would be cooperation. But the treaty could be abrogated if a republic's budget deficit became excessive (over 10 percent of revenue), if its hard-currency reserves dropped (below the monthly value of imports), if speculative capital flows to the other country were excessive (5 percent of bank deposits), or if the monetary committee became deadlocked. The treaty clearly was designed to allow the Slovaks time to prepare for their own currency, without creating panic. Klaus had made it plain in August that separate currencies would be inevitable as policy diverged, and argued that they should be introduced at a 1:1 ratio when the economies were still "not too far apart" (39, 14).

Other agreements resembled normal international treaties. And despite their thrust of easing the inconvenience of implanting an international border where there had been none, the subtext, of course, was that relations would be conducted on a normal state-to-state basis. For example, a treaty on legal assistance provided that state agencies would take action at the request of the other country's authorities; another provided for recognizing marriages and inheritances: such accords are quite ordinary. As for the border itself, a treaty provided that the current-administrative boundary would be maintained until a Czech-Slovak boundary commission reported. (In fact, the existing boundary raised very few points of contention.) It also provided that border authorities would inform each other about illegal border crossings, natural disasters and dangerous work near the frontier. In the case of disasters, citizens might cross without normal papers (43, 9).

Rights of movement were further specified in a treaty on visa requirements. Visas would not be required for interrepublic travel, and citizens could cross the border at "any convenient place," as long as the use of such a place was not prohibited by "special laws" (43, 9). Obviously, sovereign rights would be retained fully. And they had to be, for the right of visa-less movement could not apply to citizens of third states, who might be admitted under different conditions by each country. Such people, according to the Slovak minister of internal affairs, would have to cross the border at checkpoints, subject to normal passport and customs controls (43, 9). Other agreements did specify that both republics would abide by existing federal treaties with other countries about visa and residence requirements, and about refugees. The two countries would

adopt a joint approach to such treaties, and it was agreed that if one state were to expel a third-country national the other would not extend residence rights to the person.

More important for ordinary Czechs and Slovaks was a treaty specifying that no permit would be needed to work in the other country. Upon notice to the authorities by an employer, the employee would be issued a permanent residence permit. (This arrangement replicated the EC practice under the Maastricht Treaty.) Similarly, another draft treaty provided for paying social security and pension benefits to citizens of the other republic. Another recognized personal documents as valid for five years, and applied to drivers' licences and weapons permits, as well as passports. A stamp would be applied to passports, however, to indicate the bearer's citizenship.

The remaining treaties approved at Javorina covered the following matters:

- joint use of police and Ministry of Internal Affairs archives;
- cooperation in communications;
- health-care services;
- cooperation in environmental protection; and
- cooperation in education.

Despite these areas of agreement, the two sides were not able to settle the very contentious matters of citizenship and the division of federal assets. On citizenship, each republic would simply pass its own laws. The Czechs favoured an "alien regime," under which Slovaks in the Czech Republic would be foreigners, and *vice versa*. The Slovaks proposed a "union regime," under which people of both republics would have one common citizenship: this, of course, was flatly turned down (43, 10). Moreover, the Czechs rejected proposals for dual citizenship, suggesting that the 300,000 Slovaks resident in the Czech Republic might have two years to renounce their Slovak citizenship and become Czech citizens (NYT, 27 October 1992, A-6). Becoming Czech, said that republic's interior minister, would entail the giving up of Slovak citizenship (FBIS, 27 October 1992, 8). As for the 40,000 Czechs in Slovakia, there were two possibilities should they be required to assume Slovak citizenship. They might lose their Czech citizenship or the Czech government might refuse to recognize their Slovak citizenship (43, 10). Meciar claimed his government would make it possible for Czechs to become Slovak citizens without losing their Czech citizenship, but how this could occur was not evident when the Czech Republic alone, like any sovereign state, could grant or refuse citizenship.<sup>36</sup>

As for assets, there was continuing disagreement about the "location/population" principle. Some Czech hardliners argued that the Czech Republic had contributed to building up the state's wealth by a proportion greater than the

2:1 population ratio, and that the distribution of assets should reflect this historical fact. Another point advanced by the Czechs concerned assets that antedated the creation of Czechoslovakia. The Slovaks objected to the location principle being applied to army installations, 80 percent of which were in the Czech lands. As well, most federal buildings were in the capital, so Meciar suggested valuing all property and dividing it on the 2:1 basis. The matter was referred to a committee of officials (43, 10).

Negotiating groups continued their work as the politicians concentrated on the bill to dissolve the federation and divide its assets. These issues were discussed by the two governments at Zidlochovice on 9 November, when eight more agreements were signed. These draft treaties were later approved by the National Councils. The most important accord concerned the military. Each republic was setting up a Ministry of Defence, and each would receive military assets on a 2:1 ratio, as the Slovaks had demanded. This required moving very large quantities of weapons and especially aircraft into Slovakia. A second treaty was a general accord on good-neighbourly relations (to apply for 15 years, abrogable on one-year's notice). Beyond this were agreements necessary for operating the customs union:

- a treaty preventing the double taxation of income and property;
- a treaty preventing the double taxation of gifts and inheritances;
- a treaty on hard-currency arrangements; and
- a treaty on the protection of investment.

The last of these agreements provided that neither government had the right to nationalize the property of the other republic's citizens (including their privatization vouchers). Also in connection with the customs union, the two governments announced they would proceed with identical tax reforms as of 1 January. Finally, there were treaties signed on cooperation in transportation and communications, and in agriculture, the food industry, and forest and water management (44, 1-2).

At this meeting, the governments also approved a federal government bill to divide the federation's assets, and this was passed by the Federal Assembly on 13 November. This measure dealt with moveable property, fixed property, financial assets and debts, hard-currency assets and debts, and special cases. Moveable property was to be divided 2:1, on the population principle. Fixed property was owned by the republic where it was located. International fees and financial obligations were divided according to a ratio agreed with the IMF (FTL, 31 December 1992). Hard-currency assets and debts were divided 2:1. One exception to the population principle concerned the proceeds from the large privatization, which were divided 2.29:1, because the Czechs had purchased 2.29 times as many vouchers as the Slovaks. But not all issues could be resolved.

So a special commission was established, with equal representation, to deal with particular claims. As well, interrepublic agreements were to be reached on some other special assets — television and radio facilities, railways, the postal service, telecommunications, and the Academy of Sciences. This was to prove a difficult task.

The final meeting of the republican governments took place in Bratislava on 23 November, two days before the Federal Assembly passed the law to dissolve the federation. Here, six more agreements were reached. Again the most important concerned defence: it was a treaty on cooperation between the ministers. It established no common defence strategy, but did declare that armies were maintained only for defensive purposes (44, 2). The other agreements were relatively minor:

- a treaty on returning works of art to the appropriate republic;
- a treaty on cooperation between penal institutions;
- a treaty on dividing the army archives; and
- a treaty providing for cooperation in tracing the origin of goods.

Finally, the governments managed to reach agreement on dividing the assets of the federal television, radio, and press agency installations. But there was no agreement on other items of fixed property: the Slovaks continued to insist on the population principle, and to demand financial compensation for the value of the assets above this that were retained by the Czech Republic (44, 3).

Overall, the negotiated disentanglement of the Czechs and the Slovaks involved very few essential items. Having accepted that separation would take place, the leaders quickly established a timetable and a basic framework for the event. The big issues were the military, succession to international treaties, the level of postseparation economic integration, the currency, citizenship, and the division of assets and liabilities. These were settled according to clear and simple principles. If, like citizenship, they were not settled quickly, the basis of disagreement was similarly straightforward, and the ultimate resolution was left with the soon-to-be-sovereign national governments. They would resolve issues as in any normal international negotiation. The rest of the treaties comprise a surprisingly short list. They either flow from the basic agreements as corollaries (like mobility rights from the customs-union accord), or they tidy up exceptional problems (the archives), or they provide for transitional arrangements (documents), or they are the type of treaty that normally exists between contiguous states (border arrangements) or any pair of states (taxation). Given the high level of political, social, and economic integration in a state that had existed for the better part of a century, the legal structure needed to effect disengagement was extremely modest.

This is not to say that negotiations were easy, for they were not. They were held up by disagreement over fundamentals, and also over concerns particularly sensitive in this case — the state security service and its records, privatization, the state-owned mass media, and matters of defence (as the war intensified in the former Yugoslavia). The Slovaks in particular were hard-pressed by the Czech leadership, which was confident and determined by the time negotiations became serious. The Czechs made important concessions about military assets, but they were in a strong position on the issues of citizenship and other assets (most of which they effectively controlled), and they were not prepared to compromise and lose substantial advantages. The separation treaties established the foundations of future relationships, the most important being that these would be peaceful and that a customs union would continue. Within these parameters, however, there were huge areas for potential disagreement, according to the reading by each community of its collective national interest. As ever in international relations, where these readings were in conflict matters would be settled by the relative power of the sovereign states.

#### (8) FOREIGN POWERS PLAY AN IMPORTANT ROLE

The entire process of this separation was heavily influenced by external forces. The Czech and Slovak Federal Republic was a small but strategically located state that held much interest for the major powers, and what occurred there was of even greater concern to its immediate neighbours. Conversely, federal and republican leaders in the country manoeuvred within a set of constraints and opportunities established by their major foreign partners, regional associations, and international organizations.

After the revolution, the most pressing international concern was to manage the country's disengagement from the Soviet empire. This required negotiating the withdrawal of Warsaw Pact troops, and extricating Czechoslovakia from its economic obligations under COMECON. These tasks were completed smoothly, but they required very substantial efforts, especially on the part of Havel (Havel 1993, 80-82). Moreover, events in the former East Bloc continued to have domestic impacts. It was, of course, against the background of civil war starting in Yugoslavia that President Havel renounced the use of force to maintain the federation's integrity. At the same time, Slovak politicians drew parallels between their country and Slovenia and Croatia, to the irritation of many Czechs; more serious was the controversy in the summer of 1991 caused by Slovak proposals to form a "home defence force" because of the uncertain military situation to the south. To the Czechs this smacked of a separate Slovak army (22, 7).

The major foreign drive of the federation was to establish normal relations with Western Europe and the West as a whole, indeed to become integrated into the European system. In February 1991 Czechoslovakia became a member of the Conference on Security and Cooperation in Europe. In November it was admitted as an Associate Member of the European Community. Its dealings with the International Monetary Fund and the World Bank were intense. And after the attempted coup in the Soviet Union, Czech and federal politicians advocated applying for NATO membership.

In the pre-separation period of polarization these realignments contributed to tensions between the Czechs and the Slovaks. The orientation towards the West both facilitated and required the transition to a market economy, which was more popular in the Czech lands than in Slovakia. Integration with the capitalist system also had differential economic consequences, as the Czech republic received the bulk of new foreign investment. For Slovak politicians inclined towards separation, international entanglements could also be threatening, and they advocated slow progress. For instance, were Slovakia to secede its continued membership in bodies like NATO might become problematic, so it was best not to support a quick adherence (22, 7). As well, when expert committees analyzed the economic implications of separation, they flagged the growing hard-currency debt as a problem for Slovakia: given its relatively limited exports to the West and its greater dependence on trade with the former COMECON partners, its share of the debt would be difficult to support (29, 35).

More specific foreign policies also aggravated relations between the two republics. One example is arms sales. There was an opportunity to sell tanks to Syria, a proposal widely opposed in the Czech lands as immoral and damaging to relations with the West. But the deal was pushed through by the Ministry of Foreign Trade, which was highly responsive to Slovakia's armaments industry (31, 32). More generally, the Czechs were most preoccupied with diplomatic and economic relations with Germany, and negotiating a friendship treaty with the country that supplied three-quarters of new foreign investment was a high priority. This treaty was controversial, because it affirmed both the annulment of the Munich pact and the principle of the continuity of the Czechoslovak state between 1938 and 1945, so it implicitly denied Slovakia's brief independent existence. The treaty figured in the 1992 election campaign (31, 25; Ulc 1992, 31). The Slovaks, on the other hand, were most concerned with Hungary. Tensions rose over Slovakia's treatment of its Hungarian minority, and this discomfited the entire federal republic. Equally significant was disagreement over the Gabčíkovo-Nagymaros hydro-electric dam project, which involved substantial diversions of the Danube. This was begun during the Communist period but was denounced and abandoned by the Hungarians in 1991 as an environmental disaster. The project found little sympathy among the Czechs

but was strongly supported by the Slovak leadership. No national decision could be reached about how to respond to the Hungarian pressure, and the issue was shelved by subjecting the project to an environmental review under the aegis of the EC (Keesing's, September 1992, 39105; FOF, 12 November 1992, 861).<sup>37</sup> Such disagreements added to the tension between the two republics, and helped advance the view, both abroad and domestically, that Czech and Slovak national interests could not be integrated into a coherent foreign policy.

As separation's momentum increased, external considerations influenced its speed and modalities. In the autumn of 1992, Czech determination to press ahead quickly was strengthened by a drop in foreign investment, caused by international uncertainty about the future of the federation. The effects of the international community on how separation occurred were more important. Interestingly, there seems to have been little pressure from abroad to settle the issue through a referendum. The West's main concern was that the process be managed peacefully, with as little dislocation and instability as possible. And this was reflected in the actions of each republic and of the federal leaders. Since both republics had no realistic choice except to seek full integration into the European system — though their leaders and peoples differed in the enthusiasm with which they acknowledged this prospect — this was a strong incentive to reach negotiated solutions to difficult issues.

One major lever in the hands of the EC and the broader international community was their capacity to withhold recognition of either or both of the separating states. Hungary, for example, was concerned about Slovakia's treatment of its Hungarian minority, and indicated that recognition would depend on the minority rights accorded by the new state (FOF, 6 August 1992, 574). More broadly, the issue was not only whether and when the republics would be recognized as sovereign entities but also which state would be acknowledged as the successor to the Czech and Slovak Federal Republic. The successor state would automatically gain the rights and obligations attained by the federal republic: most important, treaties and memberships would not need to be renegotiated.<sup>38</sup> This consideration weighed on both sides. In particular, it restrained each of them from attaining sovereignty through non-constitutional means; that is, through a unilateral declaration of independence (UDI). In September 1991, for example, when Meciar and the Slovak radicals demanded that the Declaration of Slovak Sovereignty be adopted, Prime Minister Carnogursky argued that this would violate the existing federal constitution, and that "[n]o state would be willing to recognize Slovakia if it gained its independence through unconstitutional means" (23, 12). Similarly, in the autumn of 1992, the Czechs suspected that the Slovaks' intransigence and their renewed confederal proposals were a ploy to provoke the Czech Republic into



a UDI (unilateral declaration of independence) and so to gain successor rights for themselves.

While the need to attain international recognition helped lead to a constitutional separation, the greatest influence of foreign powers in the Czech-Slovak case was on the treaties negotiated by the two republics to govern their future relations. Here the EC was crucial. The basic legal and economic framework for postseparation cooperation, including the customs-union treaty, was agreed at Javorina on 25-26 October 1992. But the treaties were not signed by Klaus and Meciar until they had attended a London meeting of EC leaders on 28 October. At that session, the prime ministers presented a memorandum on their customs union, which would allow for "the gradual integration of the two states into the European Community" (43, 8). They asked the Community to extend the existing association agreement to both republics, and the legal and institutional framework they proposed had been designed to facilitate this. In particular, the joint Council of the Customs Union would represent both states "in exercising the rights and obligations" of the federal republic under the existing EC association agreement (43, 8).

In fact, the core customs-union treaty along with others on mobility and social security were minimal requirements to maintain progress towards full EC membership. In effect, arrangements within the Community established a basic level of integration and cooperation below which the two republics could not sink if they wished to be admitted. As Juri Pehe reported, "[s]ome EC officials have indicated that the community will not extend the terms of the current treaty on associate membership for Czechoslovakia to the two new states if the level of cooperation between them does not measure up to that between the EC members themselves." (43, 8) So external forces and opportunities made bilateral economic cooperation imperative. The established COMECON system had collapsed, and the two republics desperately needed Western capital and markets in order to maintain economic output while modernizing and privatizing their industrial structures. The only access to markets and capital was through the EC. And the necessary concomitant to this access was to maintain economic integration at the level of a common market.

#### (9) SECESSION OCCURS CONSTITUTIONALLY

The question of how separation would take place first began to pre-occupy Czech, Slovak, and federal politicians in early 1991, when the "state treaty" between the two republics came under discussion. In the Slovak interpretation, this treaty would recognize the republics as the underlying sovereign units and the federal state as their creature. In effect, achieving this confederal model would mean breaking the existing state in order to recreate it. The Czech

position was that the state treaty would be a mere "intra-state" agreement, one setting out the principles to govern the drafting of the revised federal constitution and its relationship to the republican constitutions. Apart from the state treaty problem, when all three constitutions were being rewritten simultaneously there was considerable concern that a constitutional rupture be avoided, for instance by passing amendments to the federal document before adopting the republican constitutions. But such considerations appeared far too delicate when the Slovaks began to contemplate the Declaration of the Sovereignty of Slovakia, which in the view of many represented an unconstitutional secession. Amidst the political turmoil and constitutional uncertainty, one fact remained unquestionable: under the existing constitution there was no specific mechanism through which secession could take place. Dissolving the federation would require a constitutional amendment passed by the Federal Assembly through the normal amending process.

This changed in July 1991. After the political realignments of the late spring, in the midst of stalemate about the state treaty, and against the backdrop of events in Yugoslavia, the Federal Assembly adopted a referendum law. As well as providing for referenda to be called on any policy proposals, this provided a new mechanism for separation. Essentially, a National Council or the Federal Assembly would recommend to the president that a referendum be called, and it would propose the question. The president could reject a question, but the legislature had the final say on the wording. No question could be re-submitted within five years of its being placed before the people. Proposals passed with the support of 50 percent of the eligible voters. If a secessionist question passed, the federation would be dissolved one year from the date of the referendum, and the Federal Assembly would first pass a special law providing for the division of the federation's assets. With this new referendum law in place, another constitutional avenue was opened for secession. But as events unfolded, this avenue was not taken.<sup>39</sup>

The major political formations in Czechoslovakia all agreed on the need to find a constitutional resolution to the tension between the two republics. Concern with constitutionality was evident when the Presidiums of the two National Councils met in September 1991 in Bratislava. At this difficult meeting it was agreed, first and foremost, that neither republican Parliament would act unconstitutionally to achieve its ends (22, 8). Through continuing negotiations over the constitution, all Slovak nationalist parties "stressed the need to respect the principle of constitutional separation" (29, 37). This principle seemed to be violated after the June 1992 elections when the Slovak National Council adopted the Declaration of the Sovereignty of Slovakia. But this was portrayed as symbolic.<sup>40</sup> One week later, Klaus and Meciar agreed to propose

a draft constitutional law through which the Federal Assembly lawfully would enact the separation. This was not easily achieved.

In the thrust and counter-thrust of negotiations, the Slovak Assembly passed its "full" constitution on 1 September 1992. Although some sections did not take immediate effect, this document seemed to conflict in certain ways with the existing federal constitution, and some Czech politicians argued that it was a UDI that left the Czech Republic as the successor state (39, 15). But of course, there was no neutral arbiter of such questions, and Klaus remained committed to a constitutional solution. Without a referendum, this could only come about through the Federal Assembly, and on 3 September the CDP-MDS coalition government approved a draft constitutional amendment. This provided four ways to dissolve the federation: a referendum, an agreement between the two National Councils, unilateral secession by either republic, or a declaration by the Federal Assembly (39, 15). Effectively, this measure would shift the threshold of agreement from three-fifths of the deputies in each of the three chambers of the federal legislature to a simple majority of deputies at the republic level. It seemed designed to put pressure on opposition federal deputies, for were it not passed the danger of an unlawful and potentially chaotic separation would be heightened. Debate on the amendment took place on 1 October, the day the new Slovak constitution came into effect. But the bill did not pass, in any chamber. The opposition deputies continued to demand a referendum, despite even Havel's pronouncement that this would only be divisive and disruptive. Klaus attributed the measure's defeat to the opposition's desire to force new elections.

At this point it was Klaus who was willing to threaten a non-constitutional separation. When the surprise proposal to create a confederal Czech-Slovak union emerged in the aftermath of the government bill's defeat, he refused to allow a substantive debate (40, 3; FOF, 12 November 1992, 861-2). He brought pressure to bear on the Czech opposition deputies by arguing that their tactics played into the Slovaks' hands. He threatened Meciar by declaring that if other routes to separation were blocked, the Czechs would act unilaterally, through a resolution of the National Council that would be justifiable as a reaction to the full Slovak constitution (40, 5). Faced with this resolve, the opposition parties backed away from confederalism, and, despite further confederal parries, Meciar was forced at the Jihlava meeting of the CDP and MDS leaderships to sign a document confirming the 1 January deadline for dissolution. Klaus had argued that the federation was falling apart "whether we like it or not." No constitutional amendment short of separation would be in Czech interests; hence the only choice was between an orderly and constitutional dissolution and one that would be unlawful and potentially chaotic.

At the Javorina meeting of 25-26 October, this determination paid off. The republican governments agreed on a new draft constitutional law to abolish the federation. As well, a law on the division of assets — or most of them — was agreed at Zidlochovice on 9 November. The latter bill was passed by the Federal Assembly on 13 November. Then the constitutional amendment was debated. This law stated simply that the federation would cease to exist at the end of 31 December 1992, as would all federal institutions and the armed forces, and that the Czech Republic and Slovakia would both be its successor states. The republican legislatures were also given the power to adopt constitutional laws and to conclude international treaties before the dissolution.

The proposed amendment was contentious, of course. The Slovak National Council advanced an amendment that neither new country could use the state symbols of the former federation. A more difficult issue was the future of the federal deputies who had been legitimately elected and who faced uncertain futures. A federal legislative committee proposed an amendment that legislative power in each new state would reside in both the National Councils and the federal deputies elected from each republic (44, 3). One possibility was that the deputies would be transferred into new upper houses. The Czechs envisaged a Senate, and the Slovak government also seemed prepared to accept bicameralism, if only to find a spot for the federal legislators.

Despite the proposed amendments, there was still substantial opposition among the deputies, for a variety of reasons. The Communists opposed rapid reform, the Slovakian Christian Democrats were apprehensive about the cost of separation and still favoured a referendum, and the Hungarian minority parties feared exposure to the Slovak majority. But the separatist forces increased their efforts. Both National Councils resolved that the bill should be passed. On 17 November, one day before the vote, Havel announced that he would run for the Czech presidency. And the CDP and MDS leaderships both threatened to dissolve the federation unconstitutionally.

But the measure did not pass. Some Czech opposition deputies voted in favour, and the bill carried in the House of the People (by 21 votes) and the Czech chamber of the House of Nations (by two votes), but the Slovak opposition was sufficient to block the bill in the Slovak chamber by three votes (44, 4). Now the Czech Republic's government forced the issue. The next day, the National Council passed a resolution that it was assuming "full responsibility" for the republic, to ensure that the transition to independence on 1 January would be peaceful. This showed the power of a coherent government, however narrow its majority: with 105 government deputies, the resolution received just 109 votes. The next day the legislature voted to establish Ministries of Defence and Transportation and to create the office of Czech president.

As the Czechs moved, so did the Federal Assembly. On 25 November, it passed the dissolution law (amended to integrate federal deputies into the republics' legislatures). The margin was razor-thin, (three votes beyond the required three-fifths majority), but a constitutional separation had been effected. Time was running out, and with the republican governments pressing it was clear that "the choice was no longer between splitting up and staying together but between the orderly and disorderly dissolution of the country" (44, 5). As Klaus put it, the bill's passage was a "calming gesture to the whole world" that the separation would not be lawless or violent (NYT, 26 November, 1992, A-5).

The last piece to be put into place was the adoption of the Czech Republic's constitution. The Czech National Council had lagged the Slovaks in this task, and draftsmanship and debate were intense in the last four months of the federation's existence. On 16 December, the National Council adopted the country's new constitution. It was ratified by 172 votes to 16, with ten abstentions (47, 53). The main opposition came from the nationalist Moravian representatives, who for some time had fought for greater autonomy within the new state.<sup>41</sup> The constitution did establish a new upper chamber, the Senate, but the National Council did not approve an amendment calling for its 81 seats to be filled by some of the imminently redundant Czech federal deputies.

Naturally there were some loose constitutional ends left dangling after the entire process was complete. The Czech Republic had an empty Senate, for example, and the force of referenda in Slovakia was unclear. But these gaps and uncertainties were internal to the new units, and they would be filled by the normal evolution of political and constitutional mechanisms within these sovereign states. And relations between the states would be conducted as normal international matters. The constitution that had bound them into a single legal and sovereign entity had ceased to exist (and this was quickly recognized by other states on or shortly after 1 January 1993). Albeit under intense political and economic pressure, and by a narrow margin, the state institutions possessing the power to dissolve that entity had done so — constitutionally.

#### (10) OTHER CONSTITUTIONAL CHANGES ARE MINIMAL

This generalization holds in the Czech-Slovak case, for the most part. The major principles of the existing constitution(s) and the organs of the state were maintained in each republic. Insofar as alterations were made, the cause can be located in the many alterations made after the revolution to the constitution inherited from the Communists, some of which were intended to be transitional and most of which were made in haste. As well, the republican politicians were set the task of rewriting constitutions well before it became apparent that

separation would occur, and so they enjoyed a relatively long period, largely unmarked by great urgency, for their deliberations. Given these conditions, and the utter failure of the federal system, it is perhaps surprising that the constitutions of the new states departed so little from the federal precedent and the existing constitutions of the republics. That changes were minor speaks to the great desire for stability at a time of unpredictable change.

The Slovak constitution that went into effect on 1 October 1992 contained several ambiguities, and not only about its relationship with the existing federal constitution. Voting rights, entitlements to social services, municipal powers, and procedures for electing the president, for instance, were not unambiguously defined in the document (42, 40-1). It was clear, though, that the new country was to be founded on the principle of national citizenship: the preamble that in draft form began "We, the citizens of the Slovak Republic..." became, in the final version, "We, the Slovak nation..." (42, 39). In the same vein, the protection of minority rights was less definite than in the constitution of the Czech and Slovak Federal Republic, and Slovak was defined as the "state" language. Hence the opposition to the document of the Hungarian and other minorities.

Another change was an increase in executive power relative to the legislature. The president had the right to suspend some laws and return them for reconsideration, and the government could require that this power be exercised. While the government was responsible to the National Council, a resignation by the prime minister would entail that all ministers resign. Moreover, should the legislature not pass the government's program, the president could dissolve it and require new elections. These provisions were something of a departure from the federal constitution, in which executive powers, especially those of the president, had been weak relative to those in other parliamentary systems. They were also tailored, surely, to the anticipated requirements of Meciar.

Other new provisions included the use of referenda to pronounce on certain issues, and a wider range of social and economic rights. But apart from matters of secession and unification, the reach of referendum results appeared to be limited. And the basic legal and political rights of citizens were quite similar to those in the federal Bill of Fundamental Rights and Freedoms. Overall, the constitution closely resembled what was in place. The parliamentary system was retained. The National Council still had 150 members. In the end, the legislature was unicameral. The Council was to elect the president, and the old three-fifths majority was required to do so. Similarly, despite the imbroglios of the recent past, the threshold for constitutional amendments continued to be a three-fifths majority in the National Council.

In the Czech Republic, the constitutional story was similar — minor alterations to a structure left intact. The parliamentary system was not questioned. The legislature became bicameral, with a Senate of 81 members to be elected

for six-year terms, from districts, and a House of Representatives to be elected by proportional representation and numbering 200, as before. Senate amendments of bills could be overridden by 50 percent of the House (46, 1). Executive powers were somewhat strengthened, though less than in Slovakia, and, also reflecting recent experience, the election of the president required only a majority in each Chamber.<sup>42</sup> Similarly, the House quorum was set at only one-third, and other minor provisions were designed to avert deadlock (47). On the other hand, constitutional amendments continued to require a three-fifths majority in each chamber. The separation and overall balance of powers between legislature, executive, and judiciary was undisturbed. And the basic rights of citizens were maintained: although not inscribed in the text, the whole Bill of Fundamental Rights and Freedoms was declared to be "part of the constitutional order" (47, 53).

In contrast to the Slovak constitutional provisions, the Czech Republic was explicitly established as a civil society. The preamble expressed this principle, along with those of individual freedom, dignity and equality of rights: it stated that the Czech constitution was adopted by Czech citizens in Bohemia, Moravia, and Silesia (47, 53). Despite this declaration, the constitution contained significant abeyances on the issue of territorial division. It stated that the republic would be divided into municipalities and larger units (regions or lands), whose elected legislatures would have some limited powers, but it was silent on the extent of these powers and on whether the regional boundaries would coincide with those of Moravia and Silesia (47, 57). The territorial issue had been a source of substantial conflict. Since constitutional drafting formally started in July 1992, Klaus had taken the view that a division of the republic into Lands would produce a federal constitution that would encourage secessionist tendencies. His party favoured a unitary state. But the opposition parties supported Moravian and Silesian demands for more autonomy (39, 15). The government's position was that regional autonomy should emerge gradually, and from the bottom up, rather than being enshrined suddenly in the new constitution (47, 57). In the end, though the Moravian nationalists did not vote in favour of the new constitution, the Czech Republic maintained its pre-separation territorial arrangements, with future regional administrations to be established by normal law. In the midst of the uncertainties prevailing in late 1992, the deputies were not prepared to countenance a new division of powers between the central organs of the republic and untried territorial governments.

Even though events had shown some elements of the existing constitution to be dysfunctional, and even though it had been mutating rapidly since the revolution, the essence of the new republican constitutions was continuity. They were altered only through adoption as necessary from the federal constitution (bicameralism, the Supreme Courts), or as a result of some lessons learned

about its defects (especially in the Czech case where several "fail-safe" modifications were introduced to avert improbable but possible deadlocks), or to reflect the distinctive political cultures and balance of forces (as in the Slovak preamble and executive powers). Apart from this, the constitutional status quo prevailed. Separation, with all its concomitant uncertainties, was no time to experiment with the fundamental laws of the state(s).

#### (11) SECESSION IS A MOMENTOUS AND GALVANIZING EVENT

The Czech-Slovak separation was a gradual process. At the elite level, it was marked as were other instances of secession by sharp realignments of political coalitions and the emergence of new leaders. At the mass level it was punctuated by outbursts of collective action, especially in Slovakia. Demonstrations, strikes, boycotts, and mob agitation were evident during the hyphen controversy, the language debate, and the March 1991 crisis over the Declaration of Sovereignty. The possibility of unrest certainly weighed on the minds of politicians like Havel. Similarly, when the Slovak National Council passed the declaration and the constitution, there were outpourings of nationalist celebration. On the Czech side there was more restraint, but the big petition campaign showed the depth of popular involvement.

When separation finally came, citizens in each new country marked the event with solemnity. Prague was as quiet as on any New Year's Eve (FTL, 2-3 January 1993, 2). Czechoslovak television played the bilingual anthem for the last time; then Czech television played the monolingual anthem. On 1 January there was a gala session of the Czech National Council. In a remarkably measured speech, Klaus discussed the whole post-1989 evolution of the country, summarizing it as "a quest for and a process of finding our state and national interest." (FBIS, 4 January 1993, 23) There were some ceremonies and celebrations in Bratislava, but even Meciar was restrained. At the Slovak National Council gala, he was able to say that "[w]e remember and we will remember for generations to come the first day of the Slovak Republic as a state ... the day on which, through this state, we will talk to other peoples of the world." (FBIS, 4 January 1993, 29) The previous day he had said about his former co-citizens, the Czechs, only that "[l]iving together in one state is over. Living together in two states continues" (NYT, 1 January 1993, A-1). Despite this gloss of normalcy, people on both sides of the new border realized what a fundamental break this change represented.

## (12) POLICIES IN THE TWO STATES SOON BEGIN TO DIVERGE

Like any regions, the Czech Republic and Slovakia had different demographic features, cultural traditions, resource endowments, and industrial structures. Long integration within a common political framework had not suppressed these differences. In some respects it had increased them, especially under the heavy economic planning of the Communist regime. As well it had created interdependence, and had produced policies of compromise and accommodation at the federal level. So it was inevitable, when separation reduced the need for compromise, that policies in the two states diverged, as the outputs of the political process reflected a different mix of underlying determinants.

Divergence was constrained by external forces, and by the treaties signed between the two states. For example, the Slovak government undoubtedly would have preferred to establish free markets and privatize industry more slowly than had been occurring under the federal government. However, World Bank and IMF pressure to keep up the pace was applied even before the separation (45, 87; FBIS, 28 August 1992, 25-6). With no real alternative, Slovakia later deepened its attachments to the West, by planning for NATO cooperation and signing an IMF agreement (49, 40). Foreign pressures also constrained the level of conflict that could exist between the two states. In the spring of 1993, there was still no agreement on the division of many assets. On 17 March, the Czech government announced that Slovaks who had bought shares in Czech companies during the large privatization would not receive them until a settlement about assets was reached. Not only did Meciar denounce this as blackmail, but the international investment community was critical of a decision that slowed privatization and would infringe upon the rights of foreign investors and all property owners (48, 2-3).

But foreign actors also stimulated divergences. While the two states generally took a similar position towards the collective institutions of Europe and the West as a whole, their bilateral interests had different foci. The Czechs were most preoccupied with Germany, their principal source of foreign investment and their main market. For Slovakia, it was relations with Hungary that loomed largest, and these were difficult because of Slovakia's treatment of the Hungarian minority and the continuing dispute over the Gabčíkovo dam. After the separation, the Czechs were freed from Slovakian concerns. There was no further pressure from Meciar to renegotiate the Czechoslovak-German friendship treaty. And relations with Hungary could improve.<sup>43</sup>

Policies did diverge, on several fronts. One was the treatment of minorities, which was less generous — officially — in Slovakia, where they were more numerous and cultural insecurity was greater. Another was control of information and the media, which was tightened under Meciar (45, 87; FBIS,

13 November 1992, 8). But the major area was the economy. The monetary union was soon ended, and established trade flows were disrupted. These developments were caused in part by underlying economic forces, but they also resulted from conflict between the two states and from changes in their internal political situations. By mid-1993, the summary judgement of Canada's ambassador in Prague was that "[o]verall, the countries are drifting further apart than had been expected." (Canada 1993b, 14)

The major point of direct disagreement between the governments of the two states continued to be the division of federal assets. As some assets were successfully allocated, the remaining disputes caused much bitterness and new demands. The Czechs, for instance, demanded compensation for the relative oversubscription by Slovaks in Czech firms during the privatization. They also wanted \$882 million that the Slovak government was said to have withdrawn from the federal state bank to reduce its deficit prior to the separation (48, 1). Then they threatened to withhold the Czech companies' shares from Slovak citizens. There were also disagreements about responsibility for the federation's 1992 budget deficit and how to divide the assets of the state airline and travel agency. More important, no general principles about settling such remaining disputes could be agreed, and they were negotiated one by one. The Slovaks wanted compensation for the Czech Republic's use of formerly common symbols like the flag, and of corporate names, as well as for the value of federal databases located in Prague. They demanded more State Bank gold, and even raised the issue of Slovakian villages ceded to Poland after World War II (48, 2-3). By April 1993, some progress had been made about international obligations, but much was still in dispute. The Czechs began to enunciate general principles of settlement that included having claims cancel each other out, and, more brusquely, the "super-zero option" — abandoning all outstanding claims to joint assets (Canada 1993b, 8).

On some other pressing matters, agreement was reached. Here, as ever, the accords reflected the relative bargaining power of the two sides. For instance, the two countries were entitled to gas shipments from the Commonwealth of Independent States. These were split 2:1 in favour of the Czechs. As shipment fees for gas moving through Slovakia, the Czech Republic agreed to pay \$1.30 per 1,000 cubic meters per 100 kilometers. This was substantially below prevailing rates; but without fees the Slovaks were losing \$36 million per month, a loss that was unsustainable given their economic position (48, 2).

These difficult negotiations about matters outstanding from the separation were made harder by the diverging economic conditions in the two countries. Some of these changes were policy driven. As well, interstate disagreements led to economic divergence as they had real and anticipated economic effects.

The first major divergence occurred when the common-currency agreement was cancelled on 8 February 1993.<sup>44</sup> This resulted initially from runs on Slovak banks. There was also speculative pressure that reduced Slovak currency reserves below the agreed threshold (Canada 1993a, Annex C). Then the Czech Republic decided to stamp those banknotes that were circulating within the country: citizens exchanged unstamped money for these notes, which would gradually be replaced by new Czech korunas. Slovakia adopted similar procedures — except that citizens were also granted a new right to maintain bank accounts in foreign currency (FBIS, 3 February 1992, 17). The currency split led to increased uncertainty and a sharp reduction in bilateral trade (and to Slovak demands for Czech loans to cover the trade deficit). The Czech Republic revalued its currency within the bilateral payments system by 2 percent and Slovakia devalued by 5 percent (under IMF pressure), but many economic actors anticipated a larger Slovak devaluation and hesitated to commit funds to trade and investment (48, 3-4). In July 1993, Slovakia did devalue the koruna by 10 percent, at the same time as the value-added tax was raised by 2 percent on goods and 1 percent on services (49, 40).

In part because of monetary divergence and uncertainty, trade relations deteriorated sharply. Interstate trade was important to both countries, and especially to Slovakia.<sup>45</sup> In the first quarter of 1993, bilateral trade declined almost 50 percent, dropping very quickly after the currency separation (48, 3). This drop took place in part because neither country's currency was fully convertible, so complex payments-clearing systems had to be established for trade, using both the "accounting koruna" and the European ECU. The major problem was Slovakia's trade deficit with the Czech Republic: unwilling to devalue, the Slovaks mooted imposing import-duty surcharges on goods re-exported from the Czech lands in order to decrease the deficit (FBIS, 26 February 1993, 9; 19 July 1993, 29). But continued uncertainty about the Slovak currency was another factor. And so were political relations.

In February 1993 the Czech Republic began to enforce controls at border posts. These had gone up by 1 January. Enforcement was a unilateral decision, but a quite predictable one given the need to control the movement of people, especially refugees who were unwelcome in Germany and were returned by that country (G&M, 26 June 1993, A-11). Controls were also necessary to operate and surveil the payments system (Canada 1993b, 8-9). The border checks impeded trade; indeed, it was reported soon that some firms were establishing Slovakian subsidiaries "to circumvent the bureaucratic procedures at the border," and others were resorting to barter (48, 4).

Of course, disagreements about assets, currency, and trade were restrained somewhat by self-interest, under conditions of continuing interdependence. For the Slovaks, the Czech market represented 40 percent of foreign trade, while

the more diversified Czech economy still sent 25 percent of exports to Slovakia. It was estimated that a drop of 10 percent in trade with Slovakia would decrease the Czech GNP by 1 percent (48, 4). This restrained the Czech side from taking very strong measures to recover debts or seize assets or make border passage more difficult, just as it moderated Slovak responses to Czech pressures. Both sides wanted to maintain trade — but not at all costs — and to show that the customs union could work (FBIS, 1 March 1993, 19).

Still, the economies separated. The Slovaks faced hard-currency shortages, sharp declines in production and trade, and large budget deficits (Canada 1993b, 10-11). These were bridged by the Central Bank, with the consequence of high rates of inflation (at least 20 percent). A government that had stood on a nationalist platform had achieved its goal of sovereignty, but subsequently Slovak politics were marked by considerable uncertainty and confusion. The SNP and MDS both sought to formulate new positions on the economic problems facing the country. Support for the governing coalition faded, and Meciar himself faced internal challenges to the leadership of his party. By mid-1993 the economic decline and political confusion had caused substantial disaffection among the Slovak electorate (49, 40-41).

Difficult problems remained in the Czech Republic. But the economic situation was superior. Hard-currency reserves had grown since the separation, so much that the koruna could be made convertible, and the government was running a budgetary surplus (50; 51). Under these different economic conditions, and with increasingly divergent patterns of politics, policy in the two states would continue to diverge, within the bounds dictated by a shrinking zone of mutual interest and the requirements of foreign powers and institutions.

#### (13) SECESSION IS IRREVOCABLE

When federations have broken up, they have never united again. This generalization holds here. Reunification of the Czech Republic and Slovakia as a sovereign state under common, elected institutions is inconceivable.

## V. CONCLUSION

The Czech-Slovak case is the most recent instance of a federation breaking up peacefully. Of course the case is unique, and neither its causes nor the details of the transition to separation can be readily generalized. After 1989, Czechoslovakia experienced the sudden lifting of a repressive political system, an

explosion of political energy, and massive economic restructuring. Its political leaders had both to reposition the country internationally and to overhaul the whole legal, administrative and constitutional order of the state.

Nevertheless there are some important lessons in this case. The first is that the generalizations derived from other instances of peaceful secession hold true, for the most part, for the Czech-Slovak separation. The major departures concern the *hesitant* nature of the declaration of intent to secede, the *gradual* acceptance of the principle, and the forming of tight coalitions on each side. Apart from these, the general patterns identified earlier do hold here, and this affirms that there are important commonalities in the politics of peaceful secessions. The second lesson concerns the importance of institutions. The separation was facilitated by institutions that constrained central power and created impasse at the federal level. Most notable were the relatively limited scope for presidential initiative and the rules of the Federal Assembly, particularly the provision that constitutional amendments required super-majorities in each of the three chambers. Arguably, the latter problem was exacerbated by the electoral system. It encouraged party fragmentation and the forming of coalitions for instrumental, electoral purposes, and it shut out minor parties that tended to be those running throughout the country, like the Greens and the Socialists. The holding of simultaneous republican and federal elections also contributed to the overshadowing of federal issues by more parochial concerns.

A third conclusion that emerges from this case is that the advantage in negotiations lies with the side that is least prepared to compromise. Simply enough, leaders who are willing to accept the consequences of negotiations breaking down are able to extract concessions from their partner-opponents. For much of the pre-separation process, this advantage lay with the Slovaks. Their intransigence, born at times from uncertainty and disunity, caused the federal government and the Czech Republic to cede on important matters, including power sharing, the state treaty, and having the federal constitution ratified by the National Councils. Then, after the 1992 elections, the advantage shifted to Klaus and the Czech government. Their determination to end a dysfunctional federation forced the pace of the autumn negotiations. Beyond the minimum requirements of economic integration imposed from without, they were not prepared to contemplate cooperation greater than that normally existing between two contiguous states. On matters where agreement was impossible, such as citizenship, they were prepared to accept impasse and to deal themselves with the repercussions. This attitude ultimately drove the dissolution amendment through the Federal Assembly.

For Canada, the most intriguing aspects of the Czech-Slovak case are precisely those where it does not correspond to the generalizations about peaceful secession. First, there was never a clear and authoritative statement by

the Slovak government that sovereignty was their preferred constitutional option. Nor was the principle of separation unequivocally accepted by the Czech National Council (as opposed to Klaus's party and governing coalition), until it began to approve postseparation agreements. Finally, the national governments did not broaden their support bases and expand their coalitions in order to confront one another in negotiations with a display of national solidarity; instead, after the 1992 elections, both Klaus and Meciar formed tight coalition governments and moved to dominate their legislatures by strenuously using their narrow majorities. In essence, these departures were the consequence of polarization, and they further drove that process.

Several aspects of the polarization process are worth remarking. From the start, in Slovakia, the radical nationalists set the pace, with demonstrations and demands that became ever more extreme. These were not resisted by staunchly federalist forces. When they seemed to meet a response in the populace, uncertain and anxious as it was, the more moderate parties like the CDM were pulled towards a more nationalistic position. In this, symbolic issues were exceedingly important. The official-language demands, the celebration of Tiso, the Declaration of Slovak Sovereignty — all placed mainstream parties, and the governments they directed, in the awkward position of having to decide whether to condemn the extreme manifestations of the nationalistic sentiments that, they perceived, most Slovaks shared in muted form. Equally telling was the reaction provoked by these symbolic episodes in the rest of the country. They re-awakened bitter Czech memories at worst; at least they were regarded as insulting or damaging to the larger interests of Czechoslovakia. It took only a very few Slovak extremists to shout down Havel and to jostle him, but this caused deep offence to many in the Czech lands. Such events helped prepare public sentiment for a republican government that was prepared to confront the extremists. At the same time, statements by Czech and federal leaders questioning Slovaks' commitment to civil rights, or referring to the obvious need for federal measures to protect the "national" interest, could be interpreted in Slovakia as the old, unacceptable face of domineering "Czechoslovakianism," and as justifying demands for radical decentralization, confederation, or independence. Klaus's hard line pushed Slovak opinion towards the separatist option, creating support for Meciar's moves in that direction.

Polarization was caused, too, by Slovakia's ambiguity in negotiations. The power-sharing and constitutional talks were marked by new and extreme demands, retractions, clarifications, agreements struck and then repudiated, and further demands made by disunited governments against a background of nationalist agitation and crisis. Along with Slovak foot-dragging on economic reform, these tactics — or this pattern of negotiation, for it was not always voluntary — caused enormous frustration and irritation. This was accentuated

by the view, widespread in the Czech Republic, that Slovakia was being heavily subsidized through the federation. Finally, the frustration crystallized around the vague confederalism sought by the Slovaks through the state treaty. In the Slovak version, this would have eliminated the constitutional foundation of the federal republic before erecting a new political superstructure upon the two sovereign states. The federal government would have only minimal functions — defence, the economic union, and some redistribution. Yet the commonly elected legislature would be subject to the same conflict and paralysis that currently existed. In this formulation, fundamental matters like sovereignty and citizenship, which are neither divisible nor fungible, were left terribly vague. The Slovak notion of a sovereignty-association to be achieved through confederation with common political institutions based on representative democracy left the Czechs, in the end, quite cold. Either the federation would be functional, or the two units would become normal sovereign states. Pushed to this extreme, the Czechs voted for a government that was prepared to pose these stark alternatives, and Meciar then was left with little choice except to concur in sovereignty and to salvage such associative agreements as he could.

Polarization was driven by partisan considerations. Political formations in Czechoslovakia were far more fluid than in Canada, and the great anti-communist umbrellas of Civic Forum and the Public Against Violence had no parallel here. But political opportunism is universal. In the winter of 1990-91, both Klaus and Meciar could perceive opportunities in an inchoate movement on the one hand and a finely balanced legislature on the other. Each moved boldly towards his chance — Klaus to create a normal, disciplined, market-oriented party that exuded impatience with costly Slovak intransigence, and Meciar to bolt from a collapsing umbrella and to take the lead of a potentially dominant coalition of nationalist and leftist parties. After this the two leaders could play off each other's position. Meciar's thrusts would provoke a hard-line response from Klaus, the latter framing the issue such that the Slovak "side" was reactionary, unreasonable, unreliable, and so on, and such interpretations gained support in the Czech Republic; at the same time, these interpretations alienated the Slovaks. Then, Meciar could portray Klaus and the CDP as the embodiment of Czech dominance, and as resistant to the extraordinary social needs and legitimate national aspirations of the Slovak people: this helped consolidate his domestic support. So the leaders benefited from a mutual antagonism that was politically profitable.<sup>46</sup> The 1992 elections showed how polarization worked to the advantage of both of them. And the dynamic continued through the subsequent negotiations.

After the elections, the leaders made their political agreement that the separation would take place, under a caretaker federal government that was to be their own feeble creature. Then, rather than broaden out their coalitions to

be more fully representative of opinion in their respective nations, they formed narrow, disciplined governments that could command their respective legislatures by a slim margin. Simply enough, polarization had not proceeded far enough that majorities favoured separation. Until the CDP and the MDS pressed on further with their project of disengagement, large numbers of Czech and Slovak citizens were not even prepared to accept separation as a *fait accompli*. Later they did. Essentially this was because Klaus and Meciar could force the issue by relying on simple majoritarianism at the republican level, where narrow but determined political formations could carry the day when the more stringent federal requirements for constitutional change could not be met. The MDS and CDP had each received 34 percent of the 1992 republican vote, but the majorities they subsequently formed were sufficient, through mutual antagonism and the joint threat of disorder, to force through a constitutional separation.

This leads to a final observation. In the Czech and Slovak Federal Republic, the central government could readily wither out of existence. This was a bipartite federation, composed of two republics. When the Slovaks initially made their autonomist demands, they were directed towards a federal government that was portrayed as the instrument of Czech dominance. But they were also directed towards the Czech Republic, which shared the same constitutional status as Slovakia. There were two effects of this. First, powers devolved from the centre at the demand of the Slovaks went to the Czech Republic as well as to Slovakia. Second, insofar as the centre weakened, Czech citizens increasingly looked to their republic government to protect their interests. The Slovaks had a natural interlocutor, not in the federal government but in their Czech counterpart. This was made evident, dramatically, when Klaus chose to become premier of the Czech Republic rather than form a government at the federal level. Demands for Slovak sovereignty then could readily be met by Czech insistence on sovereignty. The Slovak pressure had forced the Czechs to abandon a central government that could no longer advance their interests, and to find a substitute in their own republic. Because this was a bipartite federation, there was ultimately no locus of support for the central government. In such a federation, allegiance, power, and ultimately sovereignty could easily flow to the two component units. This is why the Czech-Slovak case was a separation, not a secession. In federations where one unit among many seeks to become sovereign, the process of finding an interlocutor, and of arranging mutually satisfactory terms of disengagement, would be much more complex and uncertain.



## Notes

1. See Robert Young (1994), "How Do Peaceful Secessions Happen?" The main cases were Austria-Hungary, Norway-Sweden, and Singapore-Malaysia.
2. All references with purely numeric indicators are to articles in *Report on Eastern Europe, RFE/RL Research Report*. The key through which articles can be located is in the References.
3. The Slovak argument against asymmetry was that with powers specially delegated to Slovakia the central government necessarily had to defend Czech interests (Saladin, 1991, 205-6).
4. Draper (1993a) argues that the failure of CF-PAV to negotiate an abrupt end to Communist rule, and later to purge the system of the *nomenklatura*, weakened the legitimacy of both democratization and economic restructuring.
5. For a critical account of the economic transformation program, see Adam 1993.
6. Capek and Szama (1993, 212-18) point out the Slovak economic development under the Communist regime had been very substantial, with national income increasing more than 1,100 percent (versus 600 percent in the Czech lands). Large interrepublic disparities in wages and incomes had been eliminated by the end of the 1980s. In part this was accomplished by transfers to the Slovak Republic that may have amounted to 5-7 percent of its national income in the 1980s.
7. Lukic argues generally that nationalism may be a useful concomitant of economic restructuring in that politicians making nationalistic appeals may generate enough political support to sustain them through the hardships caused by economic transformation (1992, 582).
8. See FBIS, 11 March 1991, 22-3: Meciar's group was to give "priority to Slovak bodies" rather than federal ones, to proceed with reform but apply it to "the local Slovak condition," and to vest authority in elected representatives rather than party organs.
9. Source: Institute for Public Opinion Research, as reported in 10, 6.
10. Richard Rose, "Czechs and Slovaks Compared," *Studies in Public Policy* No. 198, cited in Olson 1993, Table 1, 306. See also Rose and Mishler (1994): attitudes of Czechs and Slovaks toward the new and the old regimes did differ (17), but on the vast majority of attitudinal variables differences were not statistically significant or were marginally so (9, Footnote 21). Rose and Mishler mention no Czech-Slovak differences in attitudes toward economic change or in expectations about future attitudes to the new regime.
11. More provocative actions were also taken. A plaque honouring the executed war criminal, Josef Tiso, was unveiled on the same day the Israeli president arrived in Prague for a state visit (Ulc 1992, 29).
12. For an account of shifts in Slovak opinion over this period, see Butorova et al. (1991). Rising SNP support was evident from May through October 1990. By October, 26 percent of Slovaks rated the "nationality problem" as the most serious facing the country: "economic problems" were second at 13 percent.

13. The symbolism was exceedingly important. A formal statement by the government of the Czech Republic was issued on 13 March, and it declared: "[w]e have always understood 14 March, and continue to do so, to mean that at that time Slovakia found itself in a difficult situation in which, under duress, it chose the lesser of two evils. If, tomorrow, we were to be persuaded that our understanding was incorrect, this could not fail to affect our attitudes toward Slovak politics." (FBIS, 14 March 1991, 17)
14. Klaus said that he "would not be interested in being the prime minister of a self-liquidating Federal Government." (FBIS, 10 June 1992, 17)
15. But see the poll results from October-November 1991, as reported by Svec (1992, 379). Overall, 66 percent were dissatisfied with the results of economic reform, but 37 percent of Czechs and only 17 percent of Slovaks were satisfied. Of Slovaks, 64 percent wanted gradual economic reform, while 52 percent of Czechs favoured radical reform.
16. Havel (1993, 23) called this "the absurd business of gluing amendments and addenda to the Communist constitution."
17. As ever, Havel pledged himself to peaceful means. At the height of the nationalist fervour on 14 March 1991, he addressed the military in Trencin about the "dramatic times" of the young democracy: "I would like to stress that our Army must not interfere or take part in this complicated process in any way, under any circumstances. No one must even use this option as a threat or to speculate with it.... To play with the idea of the Army influencing internal political events is to disclaim all ideals of our democratic revolution and all the values in which we believe." (FBIS, 15 March 1991, 16)
18. The text is in FBIS, 14 February 1992, 6-11.
19. The election date, 5-6 June, had been decided on 3 March by the Federal Assembly (Keesing's, March 1992, 38830).
20. The only ministries to remain were to be Finance, Foreign Affairs, Defence, Interior, and the Economy (FBIS, 22 June 1992, 13).
21. The agreement is printed as read by Meciar in FBIS, 22 June 1992, 12; as adopted by the federal government, the program is printed in FBIS, 27 July 1992, 10-14.
22. Havel had urged citizens not to vote "for people for whom power is more important than the fate of the nation, people who hide conceit and pride behind their indulgent smile, people who are not able to listen to others but are full only of their own importance" (NYT, 6 June 1992, 3).
23. Speaking to the National Council, Meciar said, "[i]t is a political declaration. It is not a constitutional act and does not give rise to an independent state. However, it is a clear signal to the outside world that we intend to form our own statehood and that we wish to resolve it and bring it to a conclusion." (FBIS, 20, 23 July)
24. It is printed in FBIS, 24 July 1992, 5-6.
25. A poll published at the time showed that only 16 percent of the residents of each republic favoured independent states (though another 30 percent of Slovaks supported confederation). The proportions who would vote to secede were

- 32 percent in Slovakia and 24 percent in the Czech lands. But these proportions had roughly doubled since late 1991 (FBIS, 24 July 1992, 6).
26. Note that this date corresponded with the end of the governments' fiscal years, a matter of concern with respect to the 1993 budget (FBIS, 23 July 1992, 13).
  27. He stated, in fact, that "[s]eventy percent of Slovak Republic citizens and 74 percent of Czech Republic citizens agree with the statement, The attempts to divide the state constitute a high-powered play of politicians and do not reflect the interests of ordinary people." (FBIS, 11 December 1990, 11)
  28. "None of us," said Havel, "doubt that we are threatened with a constitutional crisis. However, we have at our disposal practically no constitutional means for handling this kind of crisis. One can say that our hands are empty. The defense law clause on the use of the Army to defend the Constitution does not appear to us as a fair method." (FBIS, 11 December 1990, 11)
  29. An intriguing footnote to the referendum campaign of autumn 1991 was the "referendum of the lightbulbs" (Ulc 1992: 31-2). At 7:40pm on 24 November, those in favour of a referendum were to switch on two 100-watt lightbulbs. The surge in power consumption produced the estimate that 2.7 million Czech households (80 percent of the population) had responded, as had 450,000 Slovak homes (37 percent of the population).
  30. After talks with Meciar, Klaus indicated on 17 June that he would stand for Czech premier, a position welcomed by Meciar as a "very wise step" that would lead to cooperation between the Czech and Slovak Republics "on a balanced principle." (FBIS, 18 June 1992, 3)
  31. In talks on 6 October, Klaus and the CDP "stressed the lack of realism and, thereby, the futility of attempts to form a union" of a confederal sort (FBIS, 7 October 1992, 8).
  32. For a sustained argument that the electoral system had failed to reflect underlying opinion, notably because the 5 percent requirement disenfranchised voters who chose minor parties, see Olson (1993). Arguably, however, the Czech-Slovak proportional representation system produces many fewer "wasted votes" than a single-member plurality system.
  33. The exceptions to all this were the former Communists and, more so, the Hungarian minority in Slovakia, which was steadfastly opposed to the separation because it regarded the federation as the best guarantor of its collective rights. For Hungarian opinion on the constitutional options, see Rosova and Butorova (1991).
  34. On 9 June, for example, the CDP Executive Council met: it approved the position of the CDP in the initial talks and gave Klaus and the deputy chairmen "full power" to conduct further negotiations (FBIS, 10 June 1992, 14).
  35. The memorandum of agreement presented to the EC is printed in FBIS, 3 November 1992, 8-9; the treaty is in FBIS, 4 November 1992, 10-14.
  36. In the end, both republics permitted citizens of the federation to choose their new citizenship. By agreement, Czechs resident in Slovakia could hold dual citizenship; Slovaks in the Czech Republic had to make a choice. Of the latter, a large majority decided to remain in the Czech Republic. For those not declaring their

- choice by 31 December 1992, there was a grace period, but two years' residency was required. All others needed five years' residency to become citizens (Canada 1993b, 9). A major problem for Slovakia was that about two-thirds of the 7500 Slovak officers in the military opted for Czech citizenship (Canada 1993b, Annex IV; NYT, 11 December 1992, A-8).
37. In the end, the sovereign Czech Republic surrendered its succession rights to the Gabčíkovo agreements (FBIS, 26 February 1993, 9).
  38. This was not an insignificant matter. The border with Hungary, for example, was the subject of a treaty with the federation. Hungary indicated that if Slovakia became independent the border would have to be reconfirmed (FOF, 6 August 1992, 574).
  39. There are many reasons for this. Apart from the desire of first the Slovak and then the Czech leaderships not to have their bargaining position undercut, there were problems with the referendum device. The debate would certainly have been quite divisive, as political conflict would become acute and perhaps violent. This was a particular concern with respect to the Hungarian minority in Slovakia. Another problem was the question. A question on secession could hardly be put to the citizens of both republics. A question on continuing the federation could prove even more awkward. It might be supported in one republic and voted down in the other. More important, a positive vote would not indicate what constitutional structure should be put in place, so the same politicians who had not reached agreement would be set negotiating again, within parameters no better defined than before.
  40. Jan Carnogursky, however, denounced the declaration as a polarizing move, "a dangerous game of poker with the emotions of the Czechs." It was cynically designed to "make the Czech side take unconstitutional steps." (FBIS, 20 July 1992, 26)
  41. As early as February 1991, deputies from the Movement for Self-Administered Democracy-Society for Moravia-Silesia had boycotted the Czech National Council because it had refused to debate the constitutional option of a "tri-federation" (Keesing's, February 1991, 38018).
  42. Very early in the separation process, Klaus had rejected Havel's arguments that the president of the Czech Republic should be directly elected (FBIS, 21 July 1992, 4, 8).
  43. Some Czech politicians had warned publicly that Slovakia and Hungary could take up arms against each other (40, 1).
  44. This was predicted by many, including federal State Bank researchers: see the conclusion to "Problems of Monetary Cooperation Between the CBR Successor States," in FBIS, 4 January 1993, 25-6.
  45. The reports prepared on the costs of separation had highlighted this, even though pre-revolution trade figures measured goods and services sold at artificial prices. In 1987, about one-third of Slovakia's industrial output was sold in the Czech lands, while the Czechs sold about one-tenth of their output to Slovakia (20, 34). Some sectors had much greater interdependence, including Slovakian agriculture,

chemicals, construction materials and semi-finished goods, and Czech coal, glass, metallurgical products, machinery, and consumer goods.

46. As Havel (1993, 4) reflected on the capacities of leadership, "[i]t is largely up to the politicians which social forces they choose to liberate and which they choose to suppress, whether they rely on the good in each citizen or on the bad."

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