

THE CANADIAN UNITY DEBATE AND ITS IMPACT ON ATLANTIC CANADA: INTRODUCTION

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This Forum began in the aftermath of the 1995 sovereignty referendum in Québec when the “unity/sovereignty” debate was in a lively phase, pending the anticipated third referendum. As academics at the University of New Brunswick working in the area of constitutional law, we felt that the Faculty of Law had an obligation to offer its own community — students and faculty — and the community at large the opportunity to consider the “unity debate” from an “at home” perspective. Should Québec separate from Canada, the ramifications would extend to all parts of Canada. For the Atlantic region, however, the impact would be undeniably significant as the region would be geographically cut off from central and western Canada. Yet, this is only the most foreseeable and perhaps dramatic consequence. We thus organized a speakers series with the intent of motivating discussion about different facets of the debate: the political-constitutional landscape, the sovereigntist perspective, the impact on Acadians, the implications for Aboriginal peoples, the perspective of women’s groups, and consideration of the economic consequences for our region.

In the main, this Forum reproduces a series of conversations or public lectures presented at the Faculty of Law over several academic years. They should be read with that temporal context in mind. Although as we write this introduction, the possibility of Québec’s separation from Canada seems to have lessened, driven from our national agenda by a concentration on national security, it has not disappeared. This internal tension, whether simmering under the surface or driving our political discourse, has ebbed and flowed since the birth of Confederation. So it is in 2002. It may well be that our speakers would provide us with different insights were they to speak today;¹ nevertheless, the basic message of each presentation remains vibrant and continues to resonate with those who care about the future of Canada. They

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¹ For example, a number of speakers referred to the federal reference to the Supreme Court of Canada concerning the constitutionality of secession. The Court’s decision was released only later in 1998 and thus the comments of some of our speakers are prospective only. See: *Reference re Québec Secession*, [1998] 2 S.C.R. 217.

remain topical in their admonition that we must address the complexities of the debate. The sovereignty movement has not abandoned its goal.

Jeremy Webber, then of McGill University, now Dean of Law at the University of Sydney in Australia, began the series with an overview of the state of the unity debate.² He posited five challenges to be addressed before the next referendum is held in Québec: (i) the development of a pan-Canadian vision, (ii) the clarification of the consequences of a “yes” vote and the development of positive solutions (what he describes as the need to “play two games at once”), (iii) the increasing pressure on Québécois to “choose sides,” (iv) the risk that the sovereigntist movement will become more extreme in its treatment of minorities, and (v) the necessity of maintaining (or re-instituting) the perception that there is a shared commitment to a “Canadian conversation.” Some of those challenges are reflected in the Supreme Court’s decision in the *Québec Secession Reference*,³ for example, the Court cautioned that in the event of a clearly expressed wish of a population to secede, both parties must be prepared to negotiate in good faith, recognizing the complexity that is contemporary Canada and taking into account the interests of minorities. Professor Webber suggested the necessity of a three-strand approach involving variants of both constitutional reform and procedures to be followed in the event of a “yes” vote as well as developing a public realization and appreciation that reform can occur in ways other than through formal constitutional change. The solution lies in an understanding that the constitutional framework is dynamic and consists not only in texts and conventions, but also in processes and in constructive dialogue by all persons interested in the debate.

Although we are unable to include the lecture supporting Québec sovereignty, we wish to acknowledge its crucial contribution to the discussion both because any lecture series addressing this topic must, of course, include this perspective, but also because of its quality. Our presenter in support of Québec sovereignty confirmed Professor Webber’s insistence that the Canadian conversation continue because “sovereignty, for most supporters of that vision of contemporary constitutionalism, has no intrinsic value, it is simply a means to an end.” The end for many sovereigntists is for Québec to define itself, “transcending a vision of [itself] largely constructed from the outside.” In the opinion of our sovereigntist presenter, “one is... not born a sovereigntist but one becomes one through experience, by way of a

² This presentation is not included in this Forum but a version is published as J. Webber, “Commitment and Community in the Inter-Referendum Period” (1997), 9 Constitutional Forum 1.

³ *Supra* note 1.

complex web of interactions marked by power and/or powerlessness....” The fundamental conflict is between two “mythologies” about the nature of Canada. For sovereignists, Québec’s identity must be self-defined as a “political community which acknowledges and values the complexity of cultural convergence.” Sovereignists view Canada, however, as subject to “an increasingly aggressive unitary national mythology” which requires a strong central government rather than a mutual recognition of Québec’s needs and aspirations. In this context, Canadians’ concern with national identity is seen as “empire-building” but it is also recognized that both sovereignists and federalists share fundamental values including “a basically similar outlook on democratic governance, social justice, human rights and a similar understanding of the need for honorable reconciliation with the Aboriginal peoples.” While theoretically Canadian federalism could accommodate both Canada’s and Québec’s “agendas,” it is unlikely to happen, at least in part because of the mistrust with which Canadians outside Québec view the referendum process and because of the federal government’s stance about the consequences of sovereignty, dire warnings of which are seen as a threat. Sovereignty-association remains a solution as long as both sides are open to negotiation and compromise.

Michel Doucet, then Dean of Law at the Université de Moncton, clearly describes the situation of Acadians in New Brunswick. Francophones in this province cannot avoid the presence of English and English culture, whereas anglophones “can go about [their] daily life without seeing, hearing or thinking about the other linguistic community.” As a general observation, reflecting a theme heard in the other presentations, Dean Doucet noted that “[t]he problem in Canada right now is that people from various backgrounds don’t know enough about the other communities.” Francophones outside Québec are “caught in the middle,” treated as “pawns” in the battle between Ottawa and Québec and sometimes as “scapegoats” for decisions taken in Québec. For Dean Doucet, there is only one viable outcome of the unity debate: “As a francophone living outside Quebec, I have no hope in a Canada without Quebec.”

As one might expect, a number of presentations addressed the same or related sub-themes within the broad parameters of the unity issue. Following the 1995 sovereignty referendum, when the prospect of Québec sovereignty came perilously close, the English-speaking provinces (the “rest of Canada”) agreed to what they perceived to be a major initiative, the *Calgary Declaration on a Framework to Improve the Social Union for Canadians* (4 February 1999). Professor Webber’s brief reference to the Declaration is positive, seeing it as restarting the conversation he believes crucial to an acceptable resolution of what appeared to be a constitutional impasse. Our sovereignist presenter, however, considered the Declaration an

example of how Canadian “imperialism” clothes itself in “democracy, cultural pluralism, equality and freedom” in order to avoid the charge that “imperialism is morally repugnant and indefensible.” Though Dean Doucet sees nothing in the Declaration for francophone communities outside Québec, he notes that criticism of the Declaration would be interpreted by some as opposition to the goal of a unified Canada. For Acadians, that goal is significant, since “the presence of Quebec in the Canadian federation is fundamental to the survival of our communities.”

Elizabeth Beale, president and chief executive officer of the Atlantic Provinces Economic Council, addressed the issue of potential economic consequences of Québec sovereignty for the Atlantic region. Ms. Beale noted that though the pre-Charlottetown Accord era produced considerable discussion about the economic impact of Québec sovereignty on Atlantic Canada (the consensus being that the impact would be negative), there has been little consideration of this topic since that time. Of equal significance is the restructuring of the national economic union and of federal-provincial relations in response to the threat of Québec separation and as a consequence of other economic and technological developments. In short, Ms Beale’s message is that changes towards decentralization are occurring independently of the unity issue and that “no part of Canada has been more affected by the economic restructuring than the Atlantic region,” with results that are not necessarily negative.

Lucille Riedle, of the New Brunswick Advisory Council on the Status of Women, draws attention both to the distinctness of Québec society, in general, and to the distinctness of Québec women, in particular. In her opinion, Québec women are more involved in promoting social change through participation in political processes than women in other provinces. As such, Québec women have a greater sense of ownership of public policy issues than other Canadian women who seek social change through the justice system, particularly *Charter* litigation presenting issues of equality. Ms. Riedle notes the success of the federal and provincial governments in using inter-governmental agreements to implement key elements of the failed Meech Lake and Charlottetown Accords on matters of social policy; for example, jurisdiction over housing and human resource training. Why, Ms. Riedle then wonders, has progress not been achieved on constitutional recognition of the obvious, that Québec is a distinct society.

In the only contribution not arising from a presentation in the lecture series, noted political scientist David Milne, professor emeritus at the University of Prince Edward Island, calls attention to the calming effect of the Supreme Court’s opinion

in the *Reference re Québec Secession*⁴ and its subsequent reformulation as the federal *Clarity Act*.⁵ Milne argues that the risk of political brinkmanship has been reduced and the odds have increased that, if achieved at all, secession will be achieved through negotiation. Thus, there will be a clear opportunity to address the needs and aspirations of Atlantic Canadians in negotiations on secession and on a reformulated Canadian federation. Milne observes that there is no present vision of Canada without Québec and that Atlantic Canadians have not properly acknowledged the contribution made by the presence of Québec, as have-not province, to our own claims to federal regional economic protection programs and to the political comfort of our French-speaking fellow citizens, the Acadians. In a new Canada without Québec, Milne favours not full partnership in an Ontario-dominated centralized federation but an Atlantic Canadian sovereignty-association with the new Canada.

The final lecturer in the series and the final forum contribution presents a voice from the first peoples of this land, the aboriginal peoples. Gary Gould, a respected activist for aboriginal rights and former president of the New Brunswick Aboriginal Peoples Council, sees parallels between the 17th century treatment of aboriginal peoples in the French/English colonial divide and their treatment in the contemporary context of the debate over Québec sovereignty. In both situations, it is the rights and interests of aboriginal peoples which are used as pawns in debates over such matters as territory and culture. Gould calls upon Canada to abandon policies which have divided aboriginal peoples into neat and multiple categories of status/non-status, on and off-reserve, etc. Such categorizations deny the reality of aboriginal nationhood and serve to undermine the exercise of treaty and aboriginal rights. For Gould, the ultimate truth is that, until aboriginal rights are fully recognized, it makes no difference whether the suppressor of aboriginal peoples is the Canadian state or a sovereign Québec. Thus, Gould sees in the recent agreements between the Québec government and aboriginal peoples a new strategy to strengthen its position for a future referendum on sovereignty.

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⁴ *Ibid.*

⁵ S.C. 2000, c. 26.

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In organizing the conversations, we hoped to contribute to the “mutual understanding” that we believe necessary if we are to resolve the Canadian constitutional dilemma without higher cost.⁶ That remains our hope as these conversations are presented in this Forum.

⁶ In his 1964 Preface to the reprinting of *The French-Canadian Outlook*, first published in 1946, Mason Wade concludes by saying that “in the last analysis the Canadian partnership of English and French can only flourish upon the basis of a much more widespread mutual understanding.” M. Wade, *The French-Canadian Outlook* (Toronto: McClelland and Stewart Limited, 1964) xi.