CONSEQUENCES OF QUEBEC INDEPENDENCE ON ATLANTIC PROVINCES

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Canadians outside Quebec are not easily inclined to think about how the prospect of Quebec's independence might affect them. Indeed, their collective aversion to so profound a rupture to their political life has made the question almost an unthinkable one. Certainly, the relative paucity of scholarly attention given to the matter is remarkable given the repeated and serious threat that the movement for Quebec's independence has posed for several decades now. For the most part, the question has been regarded virtually as taboo, as though reflecting on the unthinkable might render the threat more tangible or even confer legitimacy upon it. Apart from a few lonely scholars who briefly reflected on the idea of a Canada without Quebec in conferences and publications, particularly during the dark days following the collapse of the Meech Lake Accord, there has been scarcely any enthusiasm for directing our intellectual resources to it.[1] This neglect has extended as well to any serious consideration of how Canadians should respond to a potentially affirmative vote in a referendum campaign run and controlled out of Quebec City. As a result, Canadians were totally unprepared for the referendum they nearly lost in 1995.

If anything, the absence of serious analysis of the impact of Quebec's independence from a *regional* perspective is even more striking.[2] Certainly, for Atlantic Canadians, this was a nightmare scenario better resisted and driven from mind than actively faced. Of course, everyone understood that Quebec's independence would physically sever or separate Atlantic Canada from the rest of

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[1] See K. McRoberts, ed., *Beyond Quebec: Taking Stock of Canada* (Montreal: McGill-Queen's University Press, 1995); P. Resnick, "English Canada: The Nation that Dares not Speak Its Name," in K. McRoberts, *op.cit.* 81-92 and *Thinking English Canada* (Toronto: Stoddart, 1994), and D.J. Bercuson and B. Cooper, *Deconfederation: Canada without Quebec* (Toronto: Key Porter Books, 1991). For a thoughtful review of the difficulties English-Canadian scholars have had with the concept, see A.C. Cairns, "Political Scientists and the Constitutional Crisis: The View from Outside Quebec," in A.C. Cairns, *Disruptions: Constitutional Struggles from the Charter to Meech Lake*, (Toronto: McClelland and Stewart, 1991), at 181-98.

[2] For a rare glimpse at the subject from an Atlantic Canadian perspective, see R. Finbow, "Atlantic Canada: Forgotten Periphery in an Endangered Confederation," in K. McRoberts, *op.cit.*, at 61-80.

the country and hence expose its unique vulnerability as a little-populated eastern maritime hinterland. Making matters worse was the region was by far the most economically dependent upon Ottawa for its survival. Hence, thinking the unthinkable here required more than the usual courage. Fear was compounded by embarrassment when Atlantic Canadians openly speculated about whether their region might even be wanted by other Canadians or, like former Premier John Buchanan of Nova Scotia, mused over whether the Americans might accept the isolated provinces.

In addition to geographic isolation and economic vulnerability, Atlantic Canadians also had to contend with the unknown contingencies and circumstances that might accompany Quebec's independence. With no clarity on constitutional rules, there was always the prospect that Quebec's independence might come as an illegal act by unilateral declaration following a simple majority vote on an unclear question in a referendum. Such an outcome would shake Canada's political system and rule of law, leaving little room for addressing outstanding issues of mutual concern in an orderly process of negotiation. This, together with the sheer unpredictability of events in these circumstances, made speculation about how the region might fare even more difficult.

However, some clarity has been brought to these issues more recently as a result of steps undertaken by the Government of Canada following the 1995 referendum. Canada's reference case to the Supreme Court in 1998 respecting Quebec's ability to effect secession unilaterally has led to a much greater understanding of the rules that must guide political actors in any future referendum on Quebec independence.[3] These guidelines, requiring that any referendum question on secession in Quebec be clear and that it secure a clear majority before negotiations could begin with Quebec's federation partners, have helped reduce the uncertainties and miscalculations of the past. Indeed, in Bill C-20, these guarantees are now requirements of federal law.[4] They prevent the Government of Canada from entering into any negotiations with Quebec unless the House of Commons has previously declared that the question is clear and that a clear majority of the population has expressed its will to cease to be part of Canada. If, however, such a majority of voters in Quebec do clearly express a will to secede from Canada, the

[3] See *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217. The reference questions were submitted on September 30, 1996, arguments heard in February of 1998, and a decision rendered in August of the same year.

[4] See *Clarity Act*, R.S.C. 2000, c. 20.

Court has indicated that Canada has an obligation to negotiate in recognition of the democratic legitimacy of that result. Such negotiations, in the language of the Court, "would need to address the interests of the other provinces, the federal government and Quebec and indeed the rights of all Canadians both within and outside Quebec, and specifically the rights of minorities."[5]

The carefully balanced and thoughtful nature of the unanimous judgment has helped to reduce risk and brinkmanship among political actors and has increased the odds that if Quebec's independence comes, it will be effected through negotiation. This can only reassure Atlantic Canadians that their concerns respecting borders, transportation linkages and minority linguistic rights will be addressed. Moreover, since the Atlantic provinces will be well-represented in any such negotiations and their consent required for the necessary constitutional amendments, there is less reason than in the past to fear the unpredictable. While risk and contingency can certainly not be ruled out, it is likely that other countries will now use the Court's decision as a yardstick against which to measure Canadian political actors; indeed, as the court warned, if either Canada or Quebec failed to act in keeping with these standards, it would "put at risk the legitimacy of is exercise of its rights, and the ultimate acceptance of the result by the international community."[6]

While all of this is good news in reducing the nightmare scenario of illegal and unilateral actions, it says nothing about the prospects for Atlantic Canadians in the political aftermath. It is probable that if Quebec independence were being negotiated, a parallel process of re-negotiation would be required among the federation partners that would constitute the Rest of Canada (ROC). The architecture of the federation would need to be revisited and the will of its members to continue their political partnership tested. Of course, the legislatures and governments in ROC would seek to encourage continuity and stability, retaining wherever possible the whole corpus of Canadian law, institutions and practice. Canadians would doubtless seek to pull together, especially in the face of so severe a dislocation to the body politic as the secession of Quebec. But building a land of ROC as an enduring or acceptable substitute for the polity that had been lost would not be easy. This would be true for all Canadians, and certainly not least for Atlantic Canadians.

The root difficulty is that there is no vision of country for a Canada without Quebec. The land of ROC would begin as an amputation from a larger geographic

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[5] *Reference re Secession of Quebec, supra* note 3.

[6] *Ibid.*

and political partnership. While some scholars have given modest and often encouraging attention to the idea of a Canada without Quebec, it is too easy simply to assume a will and ability to operate as one English-speaking nation from out of the regional remnants of an older Canada. This is particularly true given the large and disproportionate (if not lopsided) differences in the population, political strength and economies of the regions. Reconciling these disparities within a new acceptable political framework of federation will not be easy. Moreover, in all probability, ROC would not even be territorially contiguous. Under these circumstances, Atlantic Canadians will want to consider seriously whether they would be as secure and well positioned within a reconstituted ROC as they are now within the status quo.

One of the most obvious concerns would be whether the departure of Quebec would diminish the vital regional protections that Atlantic Canadians require in Canada. There is good reason to think this would be so. The perennial question of sectional protection within a Canadian federation would certainly arise in a Canada without Quebec, and with more vengeance than had ever faced the original founding fathers. The problem would be Ontario. With nearly 50% of the population of the new country living within this region, its dominance would be ensured. Consider Parliament with virtually half the representation in a popularly elected House of Commons coming from one province, together with the legacy of an appointed Senate already ineffective in protecting less populated regions like Atlantic Canada. A certain consequence would be pressure for reconstituting provinces to recreate better population balance, and/or Senate reform as a matter of priority. The odds for success in either venture would not be high. And even if some success were achieved in negotiating and ratifying such changes, neither of these "solutions" would satisfactorily resolve the profound regional disparities that would exist.

These and other intractable problems that would confront Atlantic Canadians in a Canada without Quebec would doubtless emerge in conferences to redesign Canada's constitutional architecture. In any rethinking of provincial boundaries, Maritime union too would no doubt raise its head once again as one of several constitutional options for the region, and would be recommended by many Canadians outside who have always doubted the need and viability of four provinces in Atlantic Canada. This rationalist logic would, of course, fly in the face of the distinctive nature and interests of Atlantic Canadians but it would take on more salience in troubled times.[7]

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[7] For a treatment of the maritime union theme from a variety of perspectives, see *Maritime Union: Is It a Good Idea For PEI?* (Charlottetown: University of Prince Edward Island, 1996).

Secondly, Atlantic Canadians would recognize more readily than any other region in the land of ROC how fundamental a change to the character of Canada had taken place. Instead of a linguistic partnership between French and English-speaking peoples, Canada would have become an overwhelmingly anglophone country in which Acadians, in particular, would feel considerably diminished. Even if legal guarantees for the linguistic minorities were to be negotiated prior to secession, and entrenched in the constitutions of the new states, the spirit and political will behind bilingualism and linguistic partnership will surely have been shaken. This outcome can only be described as deeply traumatic for francophone inhabitants of Atlantic Canada, who after all have lived as distinct communities for hundreds of years stretching back before the creation of Canada itself. Acadians throughout the Maritime provinces will certainly feel less secure when the relative political weight of Quebec has been truly subtracted from Canada. Indeed, it may be that this transformation in Canada's body politic would most adversely affect New Brunswick's official bilingual regime, since it would no longer draw strength from Ottawa's old national bilingual legacy. It is easy to imagine how linguistic tensions following the separation of Quebec from Canada could potentially de-stabilize the province's delicate linguistic constitutional and political balance of power.

But Atlantic Canadians as a whole will also feel the absence of the political presence of Quebec in another important dimension, namely in the delicate sectional balance of "haves" and "have-nots." Certainly residents of wealthier parts of Canada that are taxed to provide transfer payments for less wealthy regions know that this part of the national social contract is supported and sustained by the political presence of Quebec as the most powerful and populated have-not province. Moreover, to the extent that such transfers, including equalization payments, flow from Ottawa without conditions to the provinces or in the case of health and post-secondary education with very few constraints, also is chiefly due to Quebec's interests and priorities.[8] Not many Atlantic Canadians recognize sufficiently how vitally Quebec has protected their generous social safety net as a have-not region. Even fewer Atlantic Canadians have contemplated how exposed their interests might be in a federation overwhelmingly dominated by residents from "have" provinces in Ontario, Alberta, and British Columbia.

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[8] See D. Milne, "Equalization and the Politics of Restraint," in R.W. Boadway and P. A. R. Hobson, eds., *Equalization: Its Contribution to Canada's Economic and Fiscal Progress* (Kingston: Queen's University, 1998) at 175-203.

The same message applies to the future of regional economic development programs in have-not areas, to concerns for regional protection and equity in all kinds of federal law and policy, particularly in the transportation sector. While on some of these issues Atlantic Canadians can again join forces with Westerners who have long complained about central Canadian dominance in federal policy, the issues may be more difficult to resolve in a Canada without Quebec. Challenging these will certainly be an uphill climb for a region that is already demoralized over the failure of national economic policies to include them, and who have nursed a feeling that their golden age was undone by central Canadians who hijacked the Maritime Conference with their agenda in 1864.

Finally, the possible departure of Quebec from the Canadian federation would certainly remove one of the principal justifications for the existence of a Canada quite distinct from that of the United States. Certainly the reduction if not removal of the francophone component from Canada's bicommunal nation would remove a principal sense of English-Canadian sense of distinctiveness from the United States. With so many other symbols of former English Canadian distinctiveness from Americans diminishing, and with the relentless integration flowing from free trade with the U.S., there will also be a disquieting fear that, after all, what is ROC and what distinctive sense of country guarantees its resistance to the lure of America? This magnetic draw from the south, always present in our history and much enhanced with free trade, now poses a greater risk to the long term independence of Canadian communities than ever before.

To fight this threat some advocates of a Canada without Quebec have argued for a more centralized federation with a stronger uncompromising federal role. They reason that with Quebec gone and provincialism challenged elsewhere in English speaking Canada, the pendulum could swing decisively in Ottawa's favour.[9] Yet, if the Canadian federation were to undergo this kind of centralizing trend, so typical in many other federations around the world, then it is debatable how far the interests of Atlantic Canadians would be served. Certainly, on the one hand, there would be stronger national standards and funding for a variety of public activities that would benefit Atlantic Canadians, but there would equally be even more loss of local control in the bargain. In an age of globalization that paradoxically appears to

[9] This position has been advocated from both left and right-wing perspectives. The left was particularly inclined to this view in the period immediately following the 1988 election where Quebec's role was decisive in committing Canada to free trade with the United States. To Canadian economic nationalists this was anathema.

demand stronger localism, this potential drift toward a more centralized federation might take the region in an unwise direction.

This at least seems to be the lesson of much of the contemporary world in Europe and elsewhere: the simultaneous expansion of global economic space together with an enhanced localism. If Atlantic Canadians were to draw their political direction from these contemporary lessons, then a better option might be to seek their own looser patterns of sovereignty/association. Once a heretical notion, Rene Levesque's old formula seems increasingly de rigeur. The political imperative of subsidiarity, or respect for local control wherever feasible, seems tailor-made for life within larger economic and political formations. Following this script, Atlantic Canadians would protect their economic space within a reconstituted Quebec/Canada in a vast continental economic union of the Americas, while simultaneously shoring up wherever possible their local capacity to shape their own societies within looser bonds of Canadian fraternity. This seems a possible sensible direction that Atlantic Canadians might pursue as a preferable outcome to membership in a more centralized federation dominated by Ontario, or worse yet, union with the United States. This struggle to better position their region as an active political player in international economic space is, after all, a task that Atlantic Canadians must face in any event, whatever should come of Quebec's dreams of independence.