

**THE INUIT OF NUNAVIK AND
THE POSSIBILITY OF QUEBEC SECESSION**

**NUNAVIK CONFERENCE ON
SELF-GOVERNMENT AND
THE CANADIAN CONSTITUTION**

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BACKGROUND

The current crisis concerning the possible secession of Quebec from Canada began with the collapse of the Meech Lake Accord. Unlike the previous threat to Canadian unity, this crisis was largely brought about by events which took place outside of Quebec rather than by developments which were brewing within Quebec society.

Until the federal government thrust Meech Lake onto the national agenda, it appeared that Quebec was willing to leave their constitutional grievances on the back burner. After the 1980 referendum, most Quebecers put the constitution out of their mind and concentrated on economic development. Not even the patriation of the Canadian Constitution over Quebec's objections was enough to reignite the issue among the general population. In other words, had there not been a Meech Lake Accord, we would probably not be facing

today's crisis involving the possible secession of Quebec from Canada.

This does not mean the threat of Quebec breaking away from Canada should be taken lightly. The Meech Lake debate rekindled issues that French speaking Quebecers feel very strongly about. In fact, they generally view the rejection of the Meech Lake accord as a slap in the face whereby Canada refuses to recognize Quebec's right to exist and develop as a distinct society.

Had a referendum been held in the months immediately following the collapse of the Meech Lake Accord, it was highly probable that a majority of Quebecers would have voted in favour of seceding from Canada to establish a sovereign country. The significance of this situation becomes obvious when one considers that this was probably the first time in Canada's history that a majority of Quebecers were willing to vote for such an option.

THE CURRENT SITUATION

After the collapse of the Meech Lake Accord, emotions were running high and many Quebecers wanted to hold a referendum on their future as soon as possible. In response to this pressure, Bourassa's Liberal government adopted a strategy of allowing the political situation to cool off by

delaying any referendum for a year or two. The Quebec legislature eventually passed a law requiring that a referendum be held by no later than the autumn of 1992.

The delaying strategy seems to have paid off. Since those days immediately following the death of the Meech Lake Accord, support for Quebec sovereignty has fallen from a high of approximately 65% to the current 40%. This figure is still high and indicates that the threat of Quebec secession is very much alive. However, it now appears that a majority of Quebecers are again willing to give constitutional reform and renewed federalism one more chance.

It is important to remember that this trend towards increased support for renewed federalism is very fragile, and it could change at a moment's notice. Support for sovereignty could skyrocket if constitutional reform proposals fall short of Quebec's expectations.

The delicate nature of the situation can be demonstrated by the fact that there is no longer a federalist voice left in Quebec to speak on behalf of Canada. Although Bourassa's Liberal Party is not as hardline as the Parti Quebecois, it gave up the pretence of speaking up for federalism sometime ago. A good number of Quebec's Members of Parliament have signed up with the Bloc Quebecois, a federal party supporting Quebec sovereignty. And finally, it is no secret that Mulroney's Quebec

caucus could go either way depending on the mood in Quebec.

IF QUEBEC WERE TO SEPARATE

It is clear that if Quebecers were to opt for sovereignty, they would prefer to break away from Canada in a friendly and cooperative manner. Quebec would probably want to maintain a strong economic association with the rest of Canada, including a common currency.

On the other hand, it is likely that the rest of Canada would resent Quebec for breaking up the country, and there may be very little support for a process that would make it easy for the province to leave confederation. For example, there is already talk on how Canada might retain resources and territory that currently fall within Quebec borders. On top of this, it is easy to imagine the room for disagreement and conflict over the division of the massive federal debt as well as the division of the many assets of the federal government. (e.g. office buildings, various installations such as airports and the St-Lawrence seaway, the armed forces, and crown corporations, including Air Canada, Canada Post, etc..)

There would also be uncertainty as to what

rules might apply for the process of dividing up the country. For example, some people claim that arrangements for Quebec's secession would have to be treated as an amendment to the Canadian Constitution. If this was to be the case, Quebec would have to negotiate its secession not only with the federal government, but with all the provincial governments that have a say under the constitutional amending formula.

We can safely assume that Quebec will demand a process where it will negotiate its secession one on one with the federal government. Quebec may therefore seek to remove itself from the rules of the Canadian Constitution through a unilateral declaration of independence. Under such a scenario, Quebec would claim that it is not subject to the constitution of a foreign country (Canada), and that it need only negotiate the mechanical details of secession with Canada's federal government.

Regardless of what unfolds, it is unlikely that there will be an easy and smooth process for dividing up the country. Needless to say, there will always be the potential for armed conflict (witness the current situation in Yugoslavia).

Ultimately, Canada and Quebec will probably settle on a process somewhere in between cooperation and open hostility. Negotiations under the process are likely to take place over a period of several years. In the meantime, economic and social development in both Canada and Quebec will

go into a deep freeze. New investment will dry-up, the economy will stagnate or contract, and government funding for anything but basic day to day services may be uncertain.

During this period, initiatives to negotiate or implement land claims for the Inuit of Labrador and NWT will probably come to a standstill, as will efforts to create of a Nunavut Territory. The Inuit of Nunavik may find that the government of a sovereign Quebec is anxious to conclude political agreements with Aboriginal Peoples. However, it will probably be many years before the government of a sovereign Quebec is in a position to implement any such agreements in a manner that will have concrete results in the communities. The government of a sovereign Quebec will be preoccupied with getting its own house in order, and it will simply not have the time or resources to focus on political and economic development of Nunavik.

INUIT AND QUEBEC SOVEREIGNTY

Inuit have much at stake if Quebec were to break away from Canada. In addition to any delays in their plans for political, economic and social development, there would be the prospect of new political barriers to further divide the Inuit of Quebec, NWT, and Labrador. Moreover, the Inuit of Quebec will want to know what will happen to their rights recognized and protected under the Canadian

Constitution. There will also be the question of what is to happen to federal obligations to the Inuit of Quebec under the James Bay and Northern Quebec Agreement as well as section 91(24) of the Constitution Act, 1867.

In the long run, it is evident that the Canadian Constitution cannot continue to apply to Inuit living outside of Canada. It has been proposed by Quebecers favouring sovereignty that this issue could be dealt with by simply having the Quebec Government assume all responsibilities and obligations that were borne by the Government of Canada.

The implementation of this transfer of responsibility would result in an amendment to both the Canadian Constitution and to the James Bay and Northern Quebec Agreement. Under current constitutional law, the former would require a First Ministers Conference to consult the Aboriginal Peoples, and the latter would require the consent of the Aboriginal People concerned.

As stated earlier, it is unlikely that Quebec will want to deal with aboriginal issues or other secession matters under rules governed by the Canadian Constitution. This again raises the question of a unilateral declaration of independence by Quebec. This, in turn, raises a number of interesting questions concerning Aboriginal Peoples:

- Would a unilateral declaration of independence be legitimate without the consent of the Aboriginal Peoples of Quebec?
- Would the Canadian Constitution still apply to the Aboriginal Peoples of Quebec if they did not give their consent for unilateral declaration of independence?
- Would the federal government have to maintain its obligations and trust responsibilities with the Aboriginal Peoples in a Quebec which declared unilateral independence?
- Would the federal government have to secure its relationship with the Aboriginal Peoples of Quebec by ensuring that they and their lands remain part of Canada?

THE 1912 EXTENSION ACT & NORTHERN QUEBEC

The foregoing questions can quickly lead to a discussion on the status of the Northern Quebec and the 1912 Extension Act in a situation where Quebec was to secede from Canada.

The 1912 Extension Act is federal legislation which extended Quebec from the southern tip of the James bay to its current northern borders. This area includes some, but not all of the Cree territory within Quebec. However, it does include all Inuit

territory in Quebec, an area which is now referred to as Nunavik.

In examining this issue, it is important to realize that Aboriginal residents of the 1912 extension area were not consulted on the transfer of their lands to Quebec. As Zebedee Nungak likes to point out, one day his grandfather was a resident of the Northwest Territories, the next day he was "a newly minted citizen of la Belle Province". It is also interesting to note that the original extension of the 1912 Extension Act stated that the transfer of the territory was conditional on Quebec satisfying aboriginal land claims. It is commonly believed that Quebec fulfilled this condition with the signing of the James Bay and Northern Quebec Agreement. However, in fulfilling this condition, Quebec assumed a series of new obligations under the Agreement.

The current debate on the future of this area centres around the fact that the federal government could repeal the 1912 Extension Act if Quebec were ever to secede. Arguments in favour of such an action are based on the fact that the 1912 area was Canadian territory which was added to Quebec as a province of Canada. If Quebec is not to remain part of Canada, it follows that this area should revert back to Canada. It is further argued that the federal government would also have a duty to repeal the 1912 Extension Act in order to honour their obligation to the Aboriginal Peoples of the region if they chose to remain part of Canada.

Over the years, Quebec has been very sensitive about the status of the 1912 extension area. Many of its policy statements concerning aboriginal issues and its northern region often refer to the need to protect "Quebec's territorial integrity". Quebec has also been willing to act on this matter. For example, when the Inuit of Nunavik threatened Quebec's control over the area in 1977 over a dispute about proposed language legislation (Bill 101), the province wasted no time in sending up two contingents of well armed riot police. More recently, the Oka crisis seems to have confirmed in the minds of many Quebecers the need to use force to deal with challenges to Quebec laws and jurisdiction.

These developments demonstrate that while it is easy to argue for the removal of the 1912 extension area from Quebec, the actual implementation of such a strategy would expose the Inuit, Quebec, and Canada to a very dangerous situation.

And finally, no discussion on the future of the 1912 extension area would be complete without noting that arguments for changing Quebec's borders can work both ways. There are many people who are of the opinion that a sovereign Quebec would have the right to extend its jurisdiction to the offshore around its northern borders (this offshore area is currently part of the NWT). There is also a smaller group that argues that under the arctic sector theory, a sovereign Quebec could claim

Baffin Island and any other territory north of the province.

THE POSITION OF THE INUIT OF NUNAVIK

The Inuit leadership of Nunavik is well aware of the various scenarios to keep the 1912 area part of Canada if Quebec were ever to secede. They are also aware that their Nunavik territory makes up approximate three-quarters of the 1912 extension area. In other words, the preference of the Inuit of Nunavik would weight heavily in any decision concerning the future of the area.

Nevertheless, Makivik, the Nunavik Constitutional Committee (NCC), and other organizations of the region have kept a low profile on this issue. They have maintained this approach despite the fact that the some Indian groups and certain groups in English Canada have done much to publicize the prospect of keeping the 1912 extension area in Canada if Quebec were to secede.

In fact, the overall approach of Makivik and the NCC has been to down play the possibility of Quebec secession. They are aware that the possibility of Quebec's secession is very real, but they do not want to inflame the issue with rhetoric or by acting prematurely. At the moment, these organizations are pursuing self-government and other negotiations with Quebec on the assumption

that there will be a new constitutional reform package that will satisfy Quebec's demands, and that the province will remain a part of Canada.

In appearances before such forums as the Belanger-Campeau Commission, Makivik and the NCC indicated that they will be keeping the door open to all options, and that they would be willing to discuss the implications of whatever future Quebec chooses for itself. They also made it equally clear that they reserve the right to reassess the situation and decide their own future in the event that Quebec should opt to break away from Canada.

SUMMARY AND CONCLUSIONS

The crisis surrounding Quebec's possible secession would probably not exist today had governments not attempted to proceed with the Meech Lake Accord. Nevertheless, the current crisis poses a very real threat to Canadian unity. In fact, for the first time in Canada's history, it appears that a majority of Quebecers were willing to vote in favour of Quebec sovereignty in the months immediately following the collapse of the Meech Lake accord.

The trend in Quebec public opinion over the past several months has been leaning towards renewed federalism and away from sovereignty. However, this trend is very fragile and could

change at a moment's notice. One way or the other, the issue will come to a head when Quebec holds a referendum on its future within the next 12 months. It will probably take place in October of 1992.

If Quebec were to secede from Canada, there is unlikely to be a painless and smooth process for dividing up the country. During this transition period, it is likely that most political, economic, and social initiatives will come to a standstill, including those relating to Inuit.

The rights of Inuit and other Aboriginal Peoples could well become the testing ground for the validity of whatever approach Quebec adopts to secede from Canada. There could be an effort to keep the 1912 Extension area within Canada, but it is unlikely that Quebec will be a passive observer to what it will see as a challenge to its territorial integrity. Again, Inuit and other Aboriginal peoples may find themselves caught on the front line of any efforts to retain the 1912 extension area.

In general, Quebec secession would not be in the interest of either the Inuit both in and outside of Quebec. Therefore, in addition to advocating constitutional positions concerning aboriginal rights, Inuit may also want to adopt and promote proposals to foster Canadian unity.

And finally, Inuit of Nunavik may wish to reaffirm their intention to decide their own future

should Quebec opt for sovereignty. Inuit held their own referendum during the Quebec referendum of 1980. It may again be time for Inuit to take the first steps to hold an Inuit referendum in the autumn of 1992.